

# Report of the Daud Committee

Committee to Assist the Resettlement and Rehabilitation  
of the Sardar Sarovar Project-Affected Persons  
(Narmada River Dam Project)

Government of Maharashtra



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## Chairman's Acknowledgement

The completion of this report is a result of the commitment of the members of the Committee to assist the Government of Maharashtra in the resettlement and rehabilitation of the project-affected persons of the Sardar Sarovar Project.

I would like to thank the Government of Maharashtra for the opportunity to serve the project-affected persons of the Sardar Sarovar Project. I would also like to thank the members of the Committee for their valuable contributions to the report.

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Committee to Assist the Resettlement and Rehabilitation  
of the Sardar Sarovar Project-Affected Persons  
(Narmada River Dam Project)

Mumbai,  
2nd June 2001

Government of Maharashtra

Shri. S. A. Daud (Retired)

(Chairman)

Committee to Assist the Resettlement and Rehabilitation  
of the Sardar Sarovar Project-Affected Persons

Report of the Daud Committee  
August 2001

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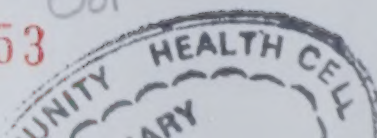
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## Chairman's Acknowledgement

The compilation that appears hereafter is mostly due to the material furnished to us by the to-be-displaced tribals, those in the resettlement colonies, spokespersons for NGOs and officers of the Government.

I would be remiss if I did not acknowledge the contribution of my colleagues, in particular by Barrister Sharad Palav. He has combined the intellectual and physical inputs that have gone into the report submitted by me, some Members and Special Invitee Smt Shinde.

The Officers of the Government have also to be thanked for their aid and advice. In this connection I want to express my special appreciation of the explanatory map provided by Shri D. M. More, which gives a complete picture of what the Sardar Sarovar Project has done and its aftermath. I do so on behalf of myself and all the non-official personnel engaged in this task. For purpose of convenience, the said map is marked SSP1.

Mumbai,  
29<sup>th</sup> June 2001

sd/-

**Justice S. M. Daud (Retired)**

Chairman

Committee to Assist the Resettlement and Rehabilitation  
of the Sardar Sarovar Project-Affected Persons

# **Committee to Assist the Resettlement and Rehabilitation of the Sardar Sarovar Project-Affected Persons**

(Government of Maharashtra)

## **Chairman**

Justice S.M. Daud (Retired)

## **Members**

Shri Manikrao Gavit, Member of Parliament

Barrister Sharad Palav

Shri R.V. Bhuskute, Retired Tahsildar

Shri Nandalal, Principal Secretary, Revenue & Forest Department,  
Government of Maharashtra

Shri K.S. Parab, Section Officer, Revenue and Forest Department,  
Government of Maharashtra and Member-Secretary

## **Special Invitees**

Smt Pratibha Shinde

Shri D.M. More, Joint Secretary, Irrigation Department, Government of Maharashtra

Shri. D.R. Mali, Joint Secretary, Revenue and Forest Department, Government of Maharashtra



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## Prologue

Narmada Bachao Andolan for long has been demanding the review of all the aspects of the controversial Sardar Sarovar Project (SSP) including the displacement and rehabilitation in the project. In the initial phase of Andolan from 1985-1988, NBA questioned the claims of resettlement and the people inspected the land earmarked for rehabilitation. However, on realizing the impossibility of rehabilitating thousands of Project affected families (PAFs) and the irreversible and adverse social, environmental and economic costs of the project NBA decided to oppose the displacement and the dam itself.

The situation has not changed for all these years. Along with the review of the project, people expected the governments concerned to follow at least the provisions of the Narmada Water Dispute Tribunal (NWDT) and ensuring the rights of the displaced tribals. According to NWDT, the construction and submergence are linked with the resettlement of the people below that height of the dam. Before any village and oustees face submergence, they should be fully resettled a year before. There has been a gross violation of the NWDT and year after year the land and houses of the tribals have been progressively submerged without full rehabilitation. The submergence threat was used to oust the people without rehabilitation. The people confronted the authorities number of times about the land availability for the resettlement. The officers agreed that there was no land. And yet the game of false claims and eviction continued.

Despite the fact that the people below 80 and 85 meters were not fully resettled and hundreds of families did not get land, the state government claimed of resettling the people up to 90 meters and land availability up to 110 meters in the Supreme Court and in Narmada Control Authority (NCA). Without verifying the facts on its own or independently, the Court too took the defendant's assertions as evidence, facilitating the increase in the height of the dam bringing more submergence and forced eviction.

Even after the Supreme Court's direction to follow the NWDT, the situation remained abysmal. Hence, NBA demanded that the Government of Maharashtra undertake an independent review of the present status of rehabilitation, the plight of those already relocated to the resettlement sites and those in the original villages, all within the framework of the NWDTA, state rehabilitation policy and the order of the Supreme Court. Village representatives from the valley held a three day dharna in Mumbai, on January 2-4, 2001, demanding the review of the situation of displacement and the cost-benefit of this project for Maharashtra. The Chief Minister of Maharashtra, Mr. Vilasrao Deshmukh declared the formation of the two independent committees, one for reviewing the rehabilitation status of Maharashtra oustees and other for the cost-benefit of the SSP for Maharashtra. Accordingly, the 'Committee to Assist the Resettlement and Rehabilitation of the Sardar Sarovar Project-Affected Persons', was formed under the chairmanship of Justice S.M. Daud (Retired), with five members and three invitees.

Despite many difficulties, the Committee has finalized its Report and submitted it to the government on July 3, 2001. The report has again brought forth the murky state of the resettlement and displacement of the tribal SSP oustees in Maharashtra. The report brings out inherent inadequacies of the resettlement process that range from non-availability of land to the incorrect enumeration of the project-affected adivasis, non-granting of land rights, unequal resettlement policy, definition of project-affected persons, corruption practices of officials, among others. It places most of the blame for such deficiencies on the absence of master plan for rehabilitation. The resettlement of those affected at 90 m is yet to be completed due to the non-availability of land. This has resulted in displaced adivasis still languishing without land allotment in the resettlement colonies.



Number of organizations and prominent persons have asked the Government of Maharashtra to act according to the observations and recommendations of the Daud Committee report. It is felt necessary to bring the report before the larger public lest it may be suppressed in the bureaucratic quagmire. The report also brings out the larger politics of displacement in the name of the development.

We hope that the report is discussed on a wider scale and it would stimulate many to become active in protecting the rights of the tribal and other oustees in the Narmada valley and elsewhere.

— Publishers



# **Committee to Assist the Resettlement and Rehabilitation of the Sardar Sarovar Project-Affected Persons**

(Government of Maharashtra)

Mumbai, 29<sup>th</sup> June 2001

This Report represents the views of Members Sarvashree Manikrao Gavit, Member of Parliament, Barrister Sharad Palav, R.V. Bhuskute, Retired Tahasildar, Special Invitee Smt. Pratibha Shinde of Punarvasan Sangharsha Samiti of Taloda (District Nandurbar) and the Chairman Justice S.M. Daud (Retired).

The Government has appointed this Committee under a Revenue & Forests Department Notification No. SSP 312000 / PK4 / R-5 dated 23.02.2001, which was later modified by further Notifications Nos. SSP 312001 / PK4 / R-5 dated 23.03.2001 and by a Corrigendum No. SSP 312001 / PK4 / R-5 dated 12.03.2001.

The Notification assigns to us various tasks which have been reduced to **Issues** reading as follows:

- 1 Is it correct to say that there is Land available for the Resettlement of the PAPs (Project-Affected Persons) in conformity with the Tribunal Award, the policy of the Government and the verdict of the Supreme Court ?
- 2
  - a Does there exist an Irrigation facility that could be made available for the benefit of the PAPs ?
  - b If not, what recommendations should be made in this behalf ?
- 3
  - a What is the impression of the Committee / Members / Invitees in respect of the villages earmarked for Resettlement Colonies ?
  - b If the Resettlement Colonies are wanting in certain respects, what recommendations should the Committee make to see that Government's policy for rehabilitation is implemented ?
- 4 Has the process of Rehabilitation of affected tribals been in accordance with the NWDT Award and the Government policies for Rehabilitation as also the decisions given by the NCA ?

To enable us to make appropriate recommendations, we have made extensive visits to the villages in the submergence areas as also the lands / sites / villages proposed or actually functioning as resettlement villages. The meetings held there for the tribal villagers were in the nature of "gramsabhas" which came to be attended in large numbers by tribals from the affected villages situated far and near.



## Our Visits

We made the following visits:

the first from 12<sup>th</sup> April to 15<sup>th</sup> April, 2001  
the second from 30<sup>th</sup> April to 2<sup>nd</sup> May, 2001, and  
the last from 18<sup>th</sup> May to 22<sup>nd</sup> May, 2001.

For the second tour and for the last two days of the third tour, the Chairman was not able to accompany the Members and an Invitee Mrs. Pratibha Shinde. Member Shri. Nandalal did not participate in any of the tours. We were fortunate to have accompanying us on the first and the third tours, Joint Secretaries Shri Mali and Shri More, who were subsequently, upon the request of the Chairman, designated as Special Invitees to the Committee by the State Government.

Apart from the tours above mentioned, a certain number of meetings have taken place at the Mantralaya at Bombay, the last such meeting having been held as recently as the 13<sup>th</sup> of June 2001.

This Committee regrets the deliberate slighting of its non-official personnel by the Government. The very first Notification constituting the Committee inflicted the following humiliations upon the non-official Members: - (1) No office or secretariat to be made available to the Committee for its working, (2) Non-official members including the Chairman not to travel by air or by first class AC, if and when recourse was to be had to the making of the journeys by rail, (3) the non-official Members being required to spend from their own pockets for a substantial portion of the journeys at the inception, though subsequently the Government reimbursed the Chairman and the Members for the expenditure incurred by them. Does this indicate an intent to play to the gallery and at the same time make it difficult for the non-official members to function properly? Or does that also indicate the boorishness and false economy of the State Executive – political and administrative – acting through its bureaucracy all these decades. If the present Government wanted show its regard for economizing it should have begun first with the lavish allowances pocketed by Ministers and Civil Servants. One only hopes that what has happened was not intended, but may have been a result of the usual inattention and callousness displayed by the bureaucracy towards those who are not their administrative or political superiors. One further hopes that nothing resembling this unprecedented humiliation is inflicted upon committees having non-official members, constituted hereafter.

## Methodology

In the course of the hearings conducted by us, we have deemed it proper to function openly. Wherever we assembled, access was allowed to anyone and everyone who considered he/she had a stake in the matter. This transparency was necessary to remove the existing feelings amongst the tribals and their sympathizers that officialdom had not been completely frank and candid with them.

The methodology adopted by us was to get the deponents who represented a particular unit / group or individual to speak in the presence of everyone, either in his own language or in Hindi, Marathi or Gujrathi. Where the tribal dialect was used by the tribals, its closeness to the languages mentioned earlier made it easy for all of us to fathom what was being said. In addition, the version of the tribals was translated and quite correctly by Smt Medha Patkar of the NBA (Narmada Bachao Andolan) and/or by Invitee Smt Pratibha Shinde of the PSS (Punarvasan Sangharsha Samiti). The Chairman's mother tongue is Gujrathi and he is fairly conversant with Hindi and Marathi. Having in the past worked as Additional District and Sessions Judge at Dhule between the years 1969-72, the Chairman has heard near about 30 to 50 criminal cases involving adivasis whether as accused, witnesses or victims. Therefore, the dialect in which the tribals spoke was not entirely foreign to the Chairman and this made it easy for him to see that the translations made by Medha Patkar and



Pratibha Shinde were accurate. Shri Manikrao Gavit, Member of the Parliament, also a member of the Committee was equally conversant with all these languages.

## **Meetings with the Tribals**

The following were the different spots at which we assembled for recording statements of the affected people.

- From the villages to be submerged, we visited Gaman and Manibeli in tehsil Akkalkua, Domkhedi and Nimgavhan in tehsil Akrani, in Nandurbar district;
- From the resettlement sites in Maharashtra, we visited all the five sites, namely Deomogra Nagar, Rozwa, Rewa Nagar, Narmada Nagar and Sardar Nagar in tehsil Taloda, Nandurbar district;
- From the resettlement sites in Gujrat, we visited Simamli and Parvetha, in Vadodara district.

Meetings were also held at Dhadgaon, Taloda and Nadurbar where concerned officials relating to the work of the Committee (task of rehabilitation) were present.

These areas, situated in Maharashtra and Gujrat, gave us a fair idea of the state of affairs in the villages to be submerged and at the resettlement sites.

We make it clear that in Gujrat the purpose of our visit was to ascertain the correctness or otherwise of the grievances voiced by the tribals in Maharashtra about the difficulties they or their neighbours and relations had faced in Gujrat. The object was not to find faults with what had been done by the Gujrat Government in the matter of rehabilitation of the oustees from Maharashtra, but to verify the correctness or otherwise of the reasons for the marked aversion on the part of a large portion of Maharashtra oustees to be resettled in Gujrat.

## **Transcripts**

We have heard numerous depositions of tribals and their spokespersons, both in the original villages as well as the resettlement sites and a number of officers and what they said finds a mention in the transcripts prepared. The recording of these transcripts was done in the open within the hearing of the people and government officers present and on the dictation of the Chairman. The Chairman in his capacity as a judicial officer of long-standing has sufficient experience of translating Marathi / Gujrathi / Hindi into English and vice versa. The recording was done by Barrister Sharad Palav who is equally familiar with the aforementioned four languages. This is being mentioned not to boast of our attainments but to make it clear that the dictation and the recording has been entirely above board. It is in this context that we have to consider some errors allegedly committed in the recording according to the Special Invitee Shri Mali. While not wishing to impute motives to him, it does not appear that what he has to say on the subject is accurate.

## **Documentation for Committee's Scrutiny**

We regret that many documents, which we had sought from the Government, have not been made available to us. While it may not be possible to say that this was done designedly, it certainly has hampered us to some extent in knowing the Government's views on crucial matters. Some of the papers made available to us in a show of compliance with the requisitions were found to be irrelevant



and not throwing any light on the subjects on which the Committee required illumination. As against this, the NBA (Narmada Bachao Andolan) has made detailed submissions and presented various documents covering almost the entire controversy. The Government will find this material useful to carry out the different tasks mentioned in our report.

## Issues

With a view to pinpoint the Terms of Reference with great accuracy we have considered it desirable to formulate issues. These issues give a fairly accurate picture of the range of inquiry to be conducted by us. While the witnesses / Government officials / members of the NBA and PSS have been allowed to freely state their views without our asking them leading questions we have tried to keep the oral submissions and depositions within the confines of the subjects covered by these issues. The issues are set out below with a short statement of our findings there. We must here state that the Annexures given to the notification constituting the Committee of which we are a part gives the erroneous impression of Government having done everything possible to accommodate the rehabilitation needs of the tribals. It is with regret that we have to comment on the erroneousness of the impressions sought to be created by as crucial a document as the notification whereunder our Committee has been constituted. From the picture prevailing as on 7.2.2001 (from the document submitted to the Committee in April 2001 placed as Exhibit 'D') it would appear that practically all the oustee families including those affected at 90m have been rehabilitated and if there be any remainder, there number is trifle. Our inquiry indicates the reverse to be the correct position. In other words the greater part of the oustees are yet to be resettled who are still without culturable land or a house plot. Even those brought into the rehabilitation sites, a large number of them face severe privations such as no land being allotted to them or those with allotments have to put up with less land or land unsuitable for cultivation, lack of water etc. etc. This deprivation goes to the extent of water required for drinking. If there be a shortage of drinking water it goes without saying that nothing like water for irrigation of the lands allotted to the tribals exist. And yet the figures supplied to us by the Government seek to give the impression as if every facility prescribed by the Tribunal Award and the Government policy has been provided to those who have been rehabilitated. Exhibit 'D', is a good example of the chasm between promises and reality. In the remarks column the stock comment is that some work has been completed, that further works are under progress, that they are proposed, etc. etc. Thus on the Government's own admission fortified by the admissions which the officers were compelled to make before us, it is clearly established that the rehabilitation process is far from complete and lacking much the spirit that animates the Tribunal Award and the policies proposed by the Government itself.

## The Issues

- Number 1.** In response to Issue No 1, whether there is land available for resettlement of PAPs, from what has been ascertained by us, it does not appear that land is available for the resettlement of the PAPs in conformity with the Award of the Tribunal, the policy of the Government and the verdict of the Supreme Court, specially in view of the fact that all those who have been shifted in the past or those presently affected at 90 mt height of the dam have not been provided with suitable land.
- Number 2(a).** In response to Issue No. 2, requiring us to say if there exists irrigation facility that could be made available for the benefit of the PAPs, we say "No".
- Number 2(b).** Our recommendation in respect of the Irrigation facilities would be that efforts should be made by the Government within a limited time frame to provide separate irrigation facility to each agricultural land that is being allotted for cultivation.



- Number 3(a).** Our observation of the resettlement colonies we visited has been that all of them are full of shortcomings specially in respect of quality and availability of suitable land to enable the resettled people to start life anew. The provision of civic amenities, including potable water is not as it could be expected under the prescribed norms. Indeed, the Government has made an effort, but that is not enough and will require more application of mind, resources and effort.
- Number 3(b).** Wherever the resettlement colonies are wanting in respect of facilities directed to be provided, we opine that the Government rectifies the defects as a time-bound programme immediately, in the light of the recommendations that have been made herein.
- Number 4.** In response to this Issue whether the process of rehabilitation has been in accordance with the NWDTA and the Government policy for rehabilitation and the decisions of the NCA, we feel that it has not been wholly so. In fact, the attempted rehabilitation is substantially less and at times in breach of what has been required by the Tribunal Award, the Government resettlement policy and the verdict of the Supreme Court. Those affected at 90m were to be resettled by 31<sup>st</sup> December 2000, even that has not been accomplished. Moreover, NWDTA had insisted on rehabilitation preceding submergence. Obviously this has also not been complied with.

There are 33 villages which are in the submergence zone and had the sequence laid down by the Tribunal been adopted, i.e., rehabilitation first and eviction from areas marked for submergence later, many of the problems which the tribals and officialdom face today would not have arisen. What we find is that while the Government is keen on shifting the tribals out of their villages, the same care and anxiety is not reflected in their programme for rehabilitation. Moreover, not everyone likely to be affected and so requiring rehabilitation has been accounted for

## **Observations on Resettlement and Rehabilitation**

The 33 villages to be submerged are from the two talukas of Nandurbar district, the talukas being Akrani and Akkalkua, 24 villages from Akrani and 9 from Akkalkua. The tribals of these villages have been in occupation and settlement of that region from times immemorial. Excepting for one family of Brahmins, who were functioning as priests at Shoolpaneshwar temple in Manibeli, the entire affected population comprises of tribals.

The tribals, basically farmers, were not merely dependent on supplemental income from forest and river produce. A fair part of their income came from animal breeding and poultry keeping. They had unlimited access to pasturage available in plenty in all seasons and poultry had its full in the sense of multiple feed available in and close to the homes of tribals in the old villages.

Though living in seemingly secluded areas, it is not as if the tribals were completely cut off from the market. The collected forest produce and where necessary fish and melons obtained from or near the river, could be bartered or sold in the township of Taloda, Akkalkua, Molgi, Dhadgaon, etc., in case of need. The animals and poultry gave them the usual output of manure, eggs and reproduction of these species which enabled practically every tribal to have large flocks of cattle, goats and sheep and poultry, etc. These provided a valuable food supplement in lean times to the tribal and his family. In fair times a tribal could sell and buy his other requirements such as clothes, agricultural implements and necessities like salt and tea, etc.



The tribals have been in possession of these lands for many generations now. However, in Akrani the tribals are recognized as encroachers on these lands. These villages are still officially termed as forest villages and despite many resolutions and orders of the Government to convert them into revenue villages, the task was initiated but aborted mid-way and now it looks like this process in these villages is being stalled. Akkalkua was formerly part of an estate whose owner has been described by the tribals as a Chieftain. The said Chieftain let his staff collect revenue or rent or whatever they could from the unfortunate tribals and they did so with impunity, there being no one to check their depredations. The tribals complain that the same state of affairs has continued even after the abolition of the rights of the Chieftain.

Attempts have been made for the rehabilitation of affected tribals on 4200 hectares of forest lands specially converted for this purpose. From amongst those tribals who have opted to be resettled in their home State of Maharashtra, they have been brought over to the five resettlement colonies developed on this forest land, all in taluka Taloda of Nadurbar district. These resettlement colonies are Rozwa resettlement colony, Sardar Nagar, Rewa Nagar, Narmada Nagar and Deomogra Nagar. Indeed the Government of Maharashtra has made a good attempt in the matter of rehabilitation, but much still remains to be done.

Time has not stood still and the number of people yet to be rehabilitated has increased from year to year. The pressured officialdom has worked out schemes for rehabilitation in a haphazard manner. This has not been deliberate but on account of the pressure brought to bear upon them to come up with solutions without enabling a proper scrutiny of the numbers displaced and the assets required and available for resettling the oustees. Subsequently the tribals who have been shifted into the resettlement colonies set up by the Government are facing numerous problems regarding land and civic amenities.

What this has led to is that patches of land meant for one PAF have been allotted to more than one such PAF with all the rivals virtually coming to blows. Another feature commonly found is that the patch of agricultural land said to be available for a PAF does not measure up to the promised 2 or 1 hectare. A part of it, sometimes a sizeable part, is what is known in the vernacular as "*potkharab*". This is on account of the soil being rocky, sandy, covered with streamlets and drains, covered with irremovable weeds and shrubs. Then we have come across cases of persons who on paper have been given lots of cultivable land, but find themselves resisted when they tried to take possession. Some of those offering claimed to be in possession as original dwellers since long and who questioned the right of the Government to allot what they claimed to be their land to any of the Narmada oustees. The same story is repeated in the case of home plots. Some such plots have been allotted to more than one person leading to the usual trouble bordering on violence.

There are also instances of tribals who figure in the list of PAFs and have been shifted to the rehabilitation sites but have not been given their entitlements of agricultural land. It is said that land to be given to these tribals is not physically available. Non-availability of agricultural land to the PAFs is not something for which the tribals can be held responsible. Government has to make good this recompense if not in the rehabilitation site somewhere in the close proximity thereof. This is in contradiction to the Government's reasons for making ex-parte allotments. It is said that such allotments are compelled because of the obstructive attitude of the tribals. If land is not available to accommodate those declared as PAFs, it is a contradiction in terms to say that the tribals refuse to move out from the villages earmarked for submergence for which reason the Government is forced to make ex-parte allotment of lands.

Apart from the defaults in the nature of omission, the authorities vested with the powers of rehabilitation have delayed acting with the promptitude expected of them. This has increased the problems of the tribals as they were either forced to stay in the villages to be submerged or being without a roof over their head and / or agricultural land which was to be their means of livelihood to begin with.



Some of the tribals still residing in the original villages have been deprived of the lands they were cultivating in the submergence areas without being placed in possession of the lands allotted to or allocable in the rehabilitation sites. Those who have received agricultural land, cultivable or otherwise, have not received legal titles for the same. And absence of legal titles concurrently with the allotment of land has often allowed errors and conflicts to creep in. This has reduced them to penury unknown to the unfortunates who had a supplemental source of livelihood in the form of forest produce, game, fish and fruits etc. As of today, none of the resettled villages has a nearby forest or river which can enable them to get something of the past which appears to have been lost for ever.

As an example of the rehabilitation sites in Maharashtra we may site the situation we found in Rozwa. It is inhabited by about 300 to 400 families. Their homes are little better than hovels. They lack potable water, condemning the women folk to walk miles to fetch a pail of drinking water. The agricultural lands allotted to some of the residents were parched, it being one of the severest summers that the region had faced in recent times. To add to the woes of the residents the MSEB without making even the electricity available had sent bills showing consumption of thousands of units of power and calling on the tribals to pay the charges. This mindlessness of officialdom is not an isolated incidence. No wonder the people at the rehabilitated village appear frustrated.

One of the contributory factors is the **absence of a Master Plan** which ought to have been formulated by the Maharashtra Government to ascertain the precise number of PAFs and the land requirements for their resettlement, its failure to ascertain from the PAFs their option as to the resettlement in Maharashtra and/or Gujrat and the piecemeal measures taken by the Government whenever a clamour arose either for expediting the SSP (Sardar Sarovar Project) or for doing justice to the displaced tribals. A failure to prepare a Master Plan which was even found desirable as a pre-requisite by NWDTA and the Supreme Court, is clearly a serious lapse giving rise to numerous problems including omission and underestimation of PAFs, vitiating the very process of resettlement and rehabilitation.

## **R & R Stipulations Under NWDT Award & Maharashtra State Policy with reference to the Supreme Court Judgment**

From the Narmada Water Disputes Tribunal Award, State Government resettlement policy and the Judgement of the Supreme Court, we get the following.

Rehabilitation is a dynamic process and the policy framework designed to bring about a smooth transition of the affected people from their traditional habitat to the new resettlement colonies, need to be constantly reviewed and modified in the light of experience gained.

However, in force today are the stringent guidelines pronounced in the NWDTA, and the monitoring mechanisms established by the controlling authorities such as the NCA, and the Government policies on rehabilitation which are all absolutely mandatory on all R&R work programmes. The Supreme Court has further strengthened this position by throwing its weight behind the strict compliance of the regulations governing the R&R programme.

The Narmada Water Disputes Tribunal in its Award envisaged in spirit the formulation of a Master Plan for the resettlement of the oustees within the next following two years (which was 1981-82). Even the Supreme Court required the preparation of a Master Plan within four weeks from the date of its judgement (i.e. by 18<sup>th</sup> November 2000).

The programme should be carried out in such a way that all the displaced families would, after their relocation and resettlement, improve or at least regain their previous standard of living within a reasonable time.



The NWDTA, resettlement policy of the State, the directions contained in the judgement of the Supreme Court and the directives of the Narmada Control Authority are a matter of legal compulsion for the Executives in carrying out the R&R programme. They have been so specifically intended to create legal rights for the enjoyment of the tribals in appreciation of their irreparable loss.

## **R & R Linkages**

It has been clearly stipulated that under NO circumstances can submergence precede rehabilitation and to ensure that irrigable agricultural land must be made available for rehabilitation one year in advance.

It is also directed that rehabilitation should be completed at least six months before an area is likely to be submerged. This rehabilitation should be completed both in respect of substitution of agricultural property and such other arrangements as are contemplated under the rehabilitation scheme.

## **Entitlements**

An oustee shall mean any person who, since at least one year prior to the date of publication of notification under Section 4 of the Land Acquisition Act, has been ordinarily residing or cultivating land or carrying on any trade, occupation or calling or working for gain in the area likely to be submerged permanently or temporarily.

A family has been defined to include husband, wife and minor children and other persons dependent on the head of the family, e.g., widowed mother.

Every displaced family from whom more than 25 % of its land holding is acquired shall be entitled to and be allotted irrigable land to the extent of land acquired from it subject to the prescribed ceiling in the State and a minimum of 2 hectares (5 acres) per family.

Joint holders are also eligible for land equal to their share subject to a minimum of 2 ha.

Every major son will be treated as a separate family, 1 ha of land to each major unmarried daughter and major son of all categories of oustees with 1.1.1987 as cut-off date for major sons and unmarried daughters.

The project-affected persons are to make their own choice of State (home State Maharashtra or Gujrat) in which they desire to be resettled. They are also to express their choice of relocation sites as well as land as per their own preferences out of three options given to be given to them.

The irrigation facilities to be provided by the State.

Those from Maharashtra willing to migrate to Gujrat for resettlement, will stand to gain the same benefits as are available to the oustees from that State.

The responsible governments will set up "rehabilitation villages" for the shifted families. These villages will be provided with all civic amenities as required with suitable agricultural land to accommodate an entire community, that is Community Resettlement of the village.

The Civic amenities to be provided include primary school, panchayat ghar, samaj mandir, health dispensary, seed store, children's park, village pond, drinking water, approach and internal roads,



tree platform, play ground for school, electric supply, open gutters, public latrines, open place for collection of animals, threshing platform, S.T. bus stand, grazing land and open place for bazaar.

## **Guiding Principles**

Full integration of the project affected families in the community in which they are resettled,

To provide appropriate compensation and adequate social and physical rehabilitation infrastructure including community services and facilities,

To ensure participation of the project affected families in their resettlement and rehabilitation,

The basic approach of rehabilitation is to convert the dislocation into a potentially beneficial opportunity for economic betterment of the project affected persons with State supporting and providing resources.

These norms and principles have been specifically laid down to safeguard the interests of the tribals. Any breach of them would therefore necessarily amount to a violation of the dictates of the NWDTA, the Supreme Court and the State resettlement policy.



# Summary of Tribals' Depositions as reflected in the Transcripts

## Meeting the People

The transcript of the depositions made by the PAPs before the Committee during the Committee's three visits to some of the submergence villages and new resettlement sites or colonies are an embodiment of the people's enjoyment of their freedom of expression. The transcripts are a repository of their hurt feelings.

Wherever the Committee held its meetings, even the people from nearby villages were also present to meet the Committee and voice their grievances.

At **Gaman** besides those from Gaman, tribals from Bamani, Sinduri, Danel, and Manibeli were also present.

At **Domkhedi**, tribals from Nimgavan, Surung, Sikka, Bharad, Keli, Thuwani, Atti, Pippalchop, Selgada, Tinismal, Mal, Savariya, Bilgaon, Chinchkhedi, Duttal and Paula were also present.

Similarly at **Nimgavan**, those from Domkhedi, Surung, Sikka, Bharad, Keli, Thuwani, Selgada, Tinismal, Mal and also villages Jalsindhi and Dubhkheda (Madhya Pradesh) were also present.

Likewise at **Manibeli**, besides the local villagers also present were tribals from Chimalkhedi, Dhankhedi, Sinduri, Gaman, Bamani, Danel, Mukhadi, Mandwa and Jangthi. Those who came from the other villages at the spots where the meetings were held always stood up to show their presence to the Committee members.

The "**Transcripts**" of the depositions made by the aggrieved PAPs speak of several complaints about mismanagement of the R&R (Resettlement and Rehabilitation) programme at the hands of the government officials. There being no evidence to the contrary, we see no reason to disbelieve the accounts of the tribals particularly as the narrations were made in the presence of the Government representatives. The demeanor of the tribals while deposing before us was such as to leave no doubt in our minds about the veracity of what they had to say. In fact if everything was as perfect as the impressions sought to be created by the Government it should not have found it difficult to examine the revenue officers working at the ground level at the rehabilitation sites as also those villages which face submergence.

The following is a summary of the depositions recorded at the public sittings of the Committee.

## Meetings at the original villages i.e. villages to be submerged

*Adivasi life:* We have been living here for many generations. We have formed these villages, we have named them, we have our gods – 'devedani' – and goddesses, we took care of this region, we never came for any outside help and we were living a peaceful, self-sufficient and contented life here. Now you come and take away from us, all this and more, and are leaving us without any livelihood and support. These forests, the river and our lands have been a part of our lives for centuries and now you come and call us encroachers on our own lands !

*Forest produce:* We collect all kinds of vegetables, medicinal plants and gum, tendu leaves, apta leaves, musli, charoli, bel leaves, etc. for personal consumption and sale. We also get firewood and timber, bamboo and teak for construction purposes. We cut standing timber not for sale but only when we require.



*River produce:* The river gives us water in unlimited quantity and which is free for all, many kinds of fish, crab, prawns, etc. We grow melons and other crops on the banks of the river.

*Land rights:* Our rightful property claims have not been recognised inspite of Govt rules and Court verdicts. Unless you recognise our land rights how will you know for sure what we are losing and so be compensated for in terms of resettlement package ? Therefore our land rights should be recognised before any displacement.

*Non-Availability of land:* The government has been saying that there is land available for us, but during last 2-3 years whenever we went as representatives of villages, there was no land for all of us and this has been the experience of most of us. Even the Govt officials who accompanied us on those occasions accepted this situation as was obtained on the spot, though they might have changed their position later. Those of us who have go to Gujrat also experience the same thing. Moreover, the lands that were allotted in most of the cases were useless for cultivation and therefore many of us have returned back here. Even those of us who are affected at 80 meters are yet to be resettled due to non-availability of land.

*Affected but not yet resettled:* Our lands, fields have been submerged since 1993 and over years the submerged area has increased. But the government has still not resettled us because there is no land.

*Returned from R & R sites to original villages:* The lands allotted to us at resettlement sites were inferior, uncultivable and unable to support us. Some PAFs have returned from sites where they had serious conflict with the host communities. So we returned the lands and returned to our villages. The officials do not care to come and see us and find out our condition.

*False information reported by Government:* The Government had repeatedly submitted false affidavits in the Supreme Court and all this led to the raising of the height of the dam firstly from 80 meters to 88 meters and then to 90 meters. The Government still continues the same game by now submitting false reports to the Narmada Control Authority, regarding the present situation in relation to those affected at 90 meters, They report that the rehabilitation of these PAFs has been completed. This is absolutely untrue as we are still here in our villages and in fact even those affected at 80 meters have not been resettled.

*Choice of the State:* We from Maharashtra do not wish to go to Gujrat, why should we be forced to go to Gujrat against our wishes ? And for those who want to go there, there is no land.

*Chieftain's rule:* When we were ruled by the chieftains, their staff used to collect from us rent and whatevers without impunity, since there was no check on their activities. What we find now that there is very little difference in the attitude of the authorities towards us, even though the rule of the chieftains has ended long back.

*Police atrocities:* When we stand for our right all that we get is beaten up by the police and jail terms even for our women though our protests have always been peaceful.

*Corruption:* The Talathi of our area took from us a sum of Rs. 1000/ - each and in all collected Rs. 1,60,000/ - in 1987 and promised to give us Khata Pustikas (legal land deeds). The khate-pustikas were given to us but they do not contain any entries and so they are useless pieces of paper.

*Ex-parte notices:* Many of us, who will be affected this monsoon, have been served with ex-parte notices even when the Govt did not have sufficient and suitable land to offer to all. That also took away from us our right to make a choice of location. We fear that when the Govt had not prepared itself to provide for all of us, the Govt was using this method to fulfil their target on paper. We do not think that the Govt should use this method to fool us. We do not want ex-parte allotments to be made at all. Even the Committee has also noticed serious errors in the issue of such notices.



*Underestimation of PAFs:* Many of us who are indeed eligible have been left out from the Govt lists.

*Wrongful serving of notices:* The notices that are being served for 90m do not cover all those who are likely to be affected at 90m. Those who went to see the land that was offered to them, were distressed on account of poor land quality. Having rejected the Govt offer for that reason, they are now facing a peculiar situation where fresh offers are not being made to them.

*Major sons and Cut-off date:* There are many young persons amongst us who have been wrongfully denied their entitlements. Most of us in this category are married having children of our own. The cut-off date given by Government has no connection with reality and should be replaced with the date of our actual rehabilitation.

*Verification by GRA:* Many of us eligible to claim resettlement under the existing rules are being denied our rights since we do not find our names on the Govt list. We all went to the GRA with our claim petitions, but they were turned down by the GRA as we were unable to produce paper evidence such as birth certificate, school leaving certificate, etc. Out of 1183 legitimate claims, only 100 have been accepted.

*Unequal packages:* Why should we suffer for the whims of the Govts of different States offering varying facilities to the same type of oustees ? Should we not get the same facilities all over when we suffer from the same impediments ?

*Tapu:* We are being told that the Govt has taken care of us by providing in their policy the same entitlements as to all those who will be submerged. This is not true.

*Compensatory Afforestation:* Our lands have been forcibly taken away for compensatory afforestation without offering us any compensation. If we are going to be left without our lands how are we going to survive?

*Panchnamas for the loss of standing crops:* The Govt has in their records, panchnamas of the losses of our standing crops, trees and household properties occasioned since 1993 for which we have not received any compensation. These papers on which these panchnamas are written should be honoured.

*Inaccessibility in Akkalkua:* The submergence has taken away our road access to the nearby markets in Gujrat. The Govt should therefore provide regular weekly transportation by boats for our movements and for transportation of our household and other requirements.

*No Land No Dam:* The Govt keeps on saying that there is enough land for all of us. When we asked the Govt officials to show us land they become helpless and get annoyed. But that has not stopped the Govt from making false claims that resettlement has been completed. And on the basis of these claims the construction of the dam is being carried out. Unless all of us who have been affected so far are completely resettled, there is no way that the Govt should allow further construction of the dam. The Govt has submerged our land but has not given us alternate land, so till then the Govt should open the gates of the dam and keep the water level low so our lands can be used by us. And the dam should be broken till 80m, since those affected at 80m are still to be resettled.



## Meetings at the resettlement sites in Maharashtra

We visited the resettlement sites in Maharashtra that have been set up and functioning for many years now.

The issues raised here were:

*Shifted but not allotted land:* Many of us have been shifted here many years ago but are yet to receive land. While some of us are declared, others are undeclared. Moreover, those undeclared have been shifted here by the Government and have been allotted house plots and given other amenities, while land has been denied to them. In our original villages our lands have been submerged and here we have been shifted but not given lands, how do we survive.....?

*Allotted uncultivable land:* The officials have allotted uncultivable lands to many of us that are of no use whatsoever. They are filled with stones and naalas and no crops can be grown on them. We have asked the Govt to change our lands but it has not been done so

*Allotted less land than entitled:* In the original villages we were holding more than 5 acres of land and some of us still have in our possession land titles. But here we have been given a maximum of 5 acres while others have received less than that too.

*Double allotment of the same land:* Many of us are faced with the situation where the same piece of land has been allotted to many people giving rise to conflicts.

*Allotted encroached land:* Some of us have been allotted land that the original tribals here claim as their own. Many years ago because of such a problem there was a huge fight between the forest officials and the tribal villages and a woman called Daniben from Kalibeli was killed. The Govt still does not give us alternate land

*No land rights:* In our original villages we were called encroachers, even though we lived there for generations, while here too we do not have any land titles although we have been staying here for years. Whenever we ask the officials they say that they will give us land titles soon, but this has not happened.

*No land available:* The tribals in the resettlement sites are facing a lot of problems while few are living comfortably. There are many with no land or less land or uncultivable land. There is no land available in the resettlement sites for more people. In fact this has been proved every time the tribals from the original village have come here with the officials in order to see land.

*No grazing land in spite of promise in R & R policy:* Though the Govt has shown in its policy that grazing land will be made available this has not yet been provided.

*No irrigation:* The Govt has not provided us with irrigation facilities as promised to us.

*Drinking water:* We also suffer from want of adequate drinking water. Sometimes the women have to fetch drinking water from a distance as far as 3 kms.

*No civic amenities including water:* The Govt is yet to provide us with all civic amenities such as sufficient cattle ponds, water supply, structure for anganwadi, income generation opportunities and jobs for our young tribals. The resettlement sites also lack complete interior gutters and interior roads.

*Major sons:* The claims of hundreds of major sons are still pending. Those who have been declared by the GRA and Shri Bagul as eligible have still not been allotted land.



GRA: GRA's answers to our problems seem to be based on documentary evidence which we do not have and cannot produce. We suggested that instead verification should be carried out in the presence of elderly and respectable people from our resettlement sites, but GRA declined.

*We were better off in our home village than here:* We had sources of supplemental income from forest and river, we had enough grazing land to maintain our livestock and poultry, we were never short of water which was free, we had houses which suited our requirements and we were not dependent on anyone for our existence. Now we seem to have lost everything including our dignity. Many of us have also lost hopes to live.

## **Meetings at the resettlement sites in Gujrat:**

Parveta (District Vadodara) on Saturday, 19<sup>th</sup> May 2001 (in the morning).

Simamli (District Vadodara) on Saturday, 19<sup>th</sup> May 2001 (in the afternoon).

*Uncultivable lands:* The lands that have been allotted to us are filled with grass, stones and so are uncultivable in many ways. How can we support ourselves like this ?

*Encumbrances:* The previous owners of our lands have borrowed money from the bank, so when we go to the bank for loans they ask us first to repay these amounts which we have not taken. The Government has allotted these lands and so these should be free of encumbrances. We have also repeatedly complained about this to the Government and the GRA to no effect.

*No Jobs:* There are many boys without any gainful occupation while the government jobs are very few. A few of us work on contract basis and so can be terminated anytime.

*No lands:* Some of us who have been shifted here have not been given lands.

*No land rights:* Many of us are yet to be given legal land titles for the lands allotted to us.

*No irrigation:* We have asked the government officials time and again to give us irrigation facilities according to the rules, but that has not been done yet.

*Dispersal of Communities:* My family has been dispersed over many R&R sites and this has broken our family.

*No lands for 90m affected people:* Whatever land is shown to us in Gujrat is not fit for rehabilitation. This amounts to be an additional cruelty as we have already lost everything. The Government keeps on saying that they have land but whenever we have gone to see the land; all we find is uncultivable land.

*We were better off in our original villages:* The SSP has been advertising that the new colonies would be an ideal state of life for the oustees, but if you ask us the sorry state is that we would prefer death for this kind of an unwelcome way of life. Where could we go to express our grief and grievance. Our experience is that it is of no use. Better, therefore, it is that we suffer in silence since no one has any remedy for our ills.

*No one for us:* Whenever we approach Maharashtra Govt and the GRA, we are told to go to the Gujrat GRA whose offices keep on assuring us that the matters would be resolved in the following 15 days, which never happens.



# Exhibits

## Submissions and Investigation

Our conclusions and recommendations are based upon our personal observations and a careful study of the various submissions made to us by the tribals and their spokespersons, including the NBA and PSS and the concerned Government officials. The contributions of all these people enabled us to gain an objective view and understanding of the myriad issues confronting the tribals and the Government. All those who are now engaged in search of a solution to these aggravating problems need to take cognizance of what is being said by the people who have experienced hardships. The written submissions provide a good guide to what has happened so far and what can be done to remedy the situation so as to arrive at an expected result in regard to rehabilitation as envisaged by the NWDTA.

Thus, the Committee arrived at its conclusions on the basis of:

- The depositions of the tribals and their spokespersons
- The written statements of Government officials
- Scrutiny of the various documents submitted by the tribals and the Government officials
- Ground level verification and investigation

The combined efforts of the Government officials present, the tribals presenting their grievances, the spokespersons and the Committee Members scrutinising the material presented before them, led to the compelling conclusions of the Committee as have been mentioned.

Physical Verification and Investigation:

- This included a sample physical verification of the actual number of PAFs against the Government list, in the village Nimgavhan, and the status of their land holdings. The findings confirmed the gross omissions and underestimation of PAFs without recognising their land rights to which they were entitled to as a matter of right by virtue of their occupation and use of those lands for generations.
- Scrutiny of the official records pertaining to Land settlement in the custody of the Tahasildar of Dhadgaon reveal that while all the basic village records (i.e. Village form I {Akarband}, Village form VI, VII – XII, and VIII A) were duly prepared and promulgated in the year 1985-86, the Notification converting forest into revenue villages was issued only in the year 1992. And this Notification was later cancelled in 1994 without a single hint to the concerned tribals. In fact, as was brought to the notice of the Committee in this context, the tribals learnt of this abrupt cancellation for the first time in the year 2000. In this respect the Exhibit 'C' mainly comprising of Member Shri Bhuskute's detailed notes on Land Rights and Land Records speaks of the startling revelations about the apparent abuse of law and the consequent denial of land rights to the tribals.
- Scrutiny of the official land records in the custody of the Tahasildar of Taloda revealed that the resettled PAFs to whom land was allotted the Tahasildar had issued only land possession receipts to them. In these receipts only forest coupe numbers were mentioned with reference to the exact surrounding boundaries of the plots given in possession. No land allotment orders were given to the PAFs. Subsequent land records i.e. Village form VI, VII-XII and VIII A, were not delivered



to them. Even 'sanad' (agreement between the land grantee and the Government) was not executed. In short, there is no document in the hands of the land allottee to prove his / her ownership over the land. The process of converting the forest land (released for rehabilitation) into revenue land has still not been completed. In this respect the Exhibit 'C' mainly comprising of Member Shri Bhuskute's detailed notes disclose the gravity of the lapses on the part of the Government for which the resettled tribals are condemned to pay a heavy price.

- The serious contradiction in the issue of notices making ex-parte allotment to tribals affected at 90m, when in fact the Government had no cultivable lands to offer to them was highlighted in the Committee's scrutiny of the matter both during their first and third tours. The Committee had then referred the matter to the Government for its appropriate action. The NBA also brought to the notice of the Committee that the Government of Maharashtra is claiming to the Narmada Control Authority that the resettlement of 90 meter – PAFs was complete. The Government on their part has actually claimed that they have completed the resettlement of all 90m affected PAFs, in their submission to the Committee.

We therefore conclude that in the view of the evidence that has come to light through investigation that:

- a) Land rights have not been granted to the tribals in the original villages inspite of the process to do so having been taken as far as pointed above.
- b) There was no land to accommodate all the PAFs affected at 90m, and,
- c) What is more serious there is a gross underestimation of PAFs.
- d) Another serious issue is that many who have been shifted to the resettlement colonies and are supposedly rehabilitated, are still awaiting their land entitlements.
- e) There are also many PAFs who have been shifted to the sites and allotted uncultivable and / or less land and/or disputed lands.
- f) There are inadequacies in relation to almost all the civic amenities in the resettlement colonies.
- g) The resettled PAFs have not been given legal land titles for the land that has been allotted to them thus placing their future in jeopardy.

During the course of its investigation and study, although the time at the disposal of the Committee was very limited in view of the enormity of the problem, the Committee came across the core of the problem as it stood with its multiple dimensions.

The Committee therefore feels obliged to include the following documents as a part of its Report, which can help to throw more light on what has been said.

The Committee basically had to work within the terms of its reference. But that was no less a mandate to enable the Committee to scrutinize and express opinions and make appropriate comments and recommendations wherever necessary and felt desirable in relation to the entire work of R&R, whether already carried out and / or yet to be carried out.



## **The Exhibits are categorized in the following manner**

- A. The Government Resolutions constituting the Committee.
- B. Transcripts of the depositions made by the tribals and their spokespersons during the course of the Committee's visits to the various villages earmarked for submergence and the resettlement sites.
- C. Observations of the Committee Member Shri R.V. Bhuskute regarding Land Rights and Land Records.
- D. Government submissions made to the Committee on the current status of rehabilitation.
- E. Submissions of NBA made to the Committee.
- F. Correspondence of the Committee with the Government.

### **A. The Government Resolutions constituting the Committee**

The English translations of the various Government Resolutions constituting the Committee and setting out its terms of reference comprise this set of annexures named Exhibit 'A'.

As the Committee's name suggests, the Committee was formed to assist the resettlement and rehabilitation of the Sardar Sarovar Project affected persons. As such the Government has acknowledged in the interest of the people that there do exist some specific problems with regard to the resettlement of the affected tribals which require careful and urgent attention.

### **B. Summary of the depositions made by the tribals and their spokespersons during the course of the Committee's visits to the various villages earmarked for submergence and the resettlement sites**

The Committee made three tours during the months of April and May 2001, each time visiting submergence villages and resettlement sites. These visits provided an opportunity for the Committee to deliberate with the Government officers at the local level including the Collector Nandurbar. The Mantralaya officers were also present then. These transcripts are in three parts according to the visits they refer to.

The Transcripts give a very detailed account of what the affected people felt free to say about their predicament. Often the Committee was used by the tribals as an interface between themselves and the Government to voice their grievances. It was gratifying to note that they came to repose such a good trust in the Committee and its Members in the expectation that their voices will be heard and conveyed to the Government with the Committee's appropriate suggestions and recommendations. The Government officials who accompanied the Committee at all times equally took part in the deliberations, throwing much light on the issues at hand.



## **C. Observations of the Committee Member Shri R.V. Bhuskute regarding Land Rights and Land Records**

These notes consist of three parts pertaining to;

1. Settlement of 73 villages (including 24 submergence villages of Akrani)
2. Families affected at 90 meters whose rehabilitation has still not been done
3. Status of Land Records in the resettlement colonies.

The 73 villages in question are forest villages. The Government of Maharashtra had taken a policy decision to convert forest villages to revenue villages in the year 1967. However, settlement process was started only in the year 1985-86 and completed thereabout. All the necessary land records were prepared. The notification of converting forest villages into revenue villages was issued after a delay of 6 years in the year 1992. This notification was later cancelled in the year 1994. So all the villages still remain as forest villages, but the Government has acted upon the encroachment regularisation orders issued by Tahasildar of Dhadgaon and have issued land allotment orders limited to 2 hectares only. But such orders, however seem to be illegal because the Tahasildar is not competent to issue these orders. Subsequently all the adivasi land holders are treated as encroachers denying them their basic right to own land. Their children are treated as landless.

The second note refers to those families affected at 90 meters whose rehabilitation has not been done.

The third note deals with the land rights issue in the resettlement colonies. It would suffice to say that the tribals who were called encroachers in their original villages will continue to be termed the same in the resettlement colonies due to the fact that Government has not granted them legal titles to the land that has been allotted to them. This has often led to a single piece of land being allotted to more than one PAF.

## **D. Government submissions made to the Committee on the status of rehabilitation**

The Government of Maharashtra has submitted two separate documents, which form the annexure as Exhibit 'D'. The main claims of the Government in these notes can be summarised as:

- That all affected tribals including those affected at 90 meters height of the dam have been fully rehabilitated with all their land entitlements being satisfied.
- Obviously what follows from the first claim is that all their civic amenities have been provided for in the resettlement colonies.
- That the Government has fully complied with the requirements of the NCA schedule and the dictates of the NWDTA and its own resettlement policy.
- The irrigation requirements have been satisfied for all resettled tribals.
- While the Government claims there is no scarcity of land to satisfy the rehabilitation needs, in the same breath they state that they still require 942.40 hectares of land to resettle balance PAFs.



The first document relates to a specially prepared note for the consumption of the Committee and which was handed over to the Committee Members at their first meeting held at Mantralaya on 4<sup>th</sup> of April 2001. The note speaks of the present status of the rehabilitation indicating that those affected at 90 meters have been fully rehabilitated, an assertion, which was proved to be false as a result of the investigations of related matters carried out by the Committee. The Committee's view was further strengthened in this regard by the people affected at 90m level (those enlisted by the Government as well as those left out) presenting themselves before the Committee claiming their rights.

This note also incorporates the NCA time-table with regard to the schedule for further construction of the dam at various height intervals in relation to the rehabilitation of the PAFs. The Government was directed by NCA to resettle the remainder of the PAFs at 90m, by 31<sup>st</sup> December 2000. That this has not been done so as yet for reason of the non-availability of agricultural land required, goes to prove that the Government has failed to adhere to the NCA directives.

## **E. Submissions of NBA made to the Committee**

The Narmada Bachao Andolan (NBA) took the opportunity all along to make several submissions detailing various aspects of resettlement and rehabilitation. These submissions relate to the following issues:

### **1. Exhibit 'E', Annexure 1**

Land Settlement process in 24 submergence villages in Akrani need to be completed. These villages are still called forest villages. Surveys were carried out in 1985-86 for this purpose on the basis of which the Government issued a notification in 1992 indicating that the 24 villages are in possession of more than 14,000 hectares. This Notification was cancelled in 1994 (Exhibit 'E', Annexure 2) without any indication to the concerned tribals. The non-granting of the land rights has serious implications in relation to the entitlements of the affected tribals in their resettlement, such as being forced to accept less land than actual land holding. The absence of land rights also results in a loss of rights to succession, as a result many tribals are shown as landless, etc. etc.

### **2. Exhibit 'E', Annexure 3**

Regularisation of forest cultivations in accordance with the GRs of 1978-79 and the verdict of the Supreme Court in 1995 in the case of Shri Pradip Prabhu Vs Government of Maharashtra, still remains to be done in all the submergence villages. On 1<sup>st</sup> April 2000, Shri Bagul, head of the Committee with the task of surveying the forest cultivations wrote a letter to the NBA stating that these surveys would be carried out (Exhibit 'E', Annexure 4). However, after this process was started, on 29<sup>th</sup> May 2000 the Principal Conservator of Forests, Nasik Division wrote to the NBA stating that since these villages are being submerged they would not be surveyed (Exhibit 'E', Annexure 5). Hence even this process is still due.

### **3. Exhibit 'E', Annexure 6**

The NBA states that there is a serious underestimation of PAFs. To support their argument they have produced extracts from the report of the Tata Institute of Social Sciences, when it was the official Monitoring and Evaluation agency for the Government in this project where they have pointed out that there are atleast 4300 affected tribal families. This report also comments on the issue of villages which will become tapus and / or isolated units and the impossibility of life thereon. It also speaks of the encroachments in the resettlement colonies and the fact that non-granting of land rights would result in the tribals from Akrani receiving less entitlements than they actually possess

### **4. Exhibit 'E', Annexure 7**

The NBA has been stating that the cut-off date for major sons and unmarried major daughters which is 1-1-1987 should be changed to the date of their resettlement. They have produced extracts from



the report of the 13<sup>th</sup> field visit of the R&R Sub-group of the Narmada Control Authority where recommendations for changing the date has been strongly made.

#### **5. Exhibit 'E', Annexure 8**

The resettlement policies of the three States of Maharashtra, Gujrat and Madhya Pradesh are not equal and this represents a problem, according to the NBA. They have suggested that an equal policy should be adopted and have given proof that the same recommendation was offered by the Tata Institute of Social Sciences and the R&R Sub-group of Narmada Control Authority in May 1990 in their 9<sup>th</sup> meeting. This TISS report firmly asserts that there is virtually no landlessness in the original villages and that the average land holding is between 2.82 hectares to 5.25 hectares. The report clearly points out that atleast 7000 – 8000 hectares of land will be required to resettle all affected tribals.

#### **6. Exhibit 'E', Annexure 9**

The NBA has forcefully stated before the Committee that there is no land available for the resettlement of the PAFs. They have added that whenever they were called to the R&R sites to inspect land they returned empty handed, except for written acknowledgements from the Government officials there accepting that land is not available in the sites.

#### **7. Exhibit 'E', Annexure 10**

With regard to the resettlement of PAFs affected at 90 meters, the NBA has submitted detailed surveys listing the number of families to be affected in the coming monsoon this year (2001). They have painted a grim picture of the devastation and loss of property that seems likely this year in the monsoon. NBA has produced press cuttings of statements made by the local resettlement officials stating that more than 522 tribal families will be endangered in the monsoon this year (2001) (Detailed comments on these press statements are placed as Exhibit 'E', Annexure 11).

#### **8. Exhibit 'E', Annexure 11**

The construction of 3m speed humps that has already been built which according to the Government of Madhya Pradesh and the Chairperson of R&R Sub-group of NCA and officials of the Ministry and Environment and Forest is bound to increase submergence. They state that while on the one hand the Government of Maharashtra has no clue about the number of PAFs to be affected at 93 meters, on the other hand the resettlement of those affected at 90m still remains pending. All this while the Government consistently states in all forums including the Narmada Control Authority that resettlement of 90m affected PAFs is complete.

#### **9. Exhibit 'E', Annexure 12**

NBA has also submitted the 21<sup>st</sup> Field visit report of the R&R Sub-group of the NCA, where the Chairperson of the group has acknowledged the problems at the R&R sites including non-allotment of land to more than hundred PAFs who were shifted to Rozwa. The Chairperson has also stated that the resettlement of 90 meter affected PAFs should be completed by 31<sup>st</sup> of December 2000. This obviously has not happened even up to the first visit of the Committee to Deomogara resettlement site where the mistakes were noticed resulting in the subsequent withdrawal of the notices served to the 90m affected PAFs (Exhibit 'E', Annexure 13).

#### **10. Exhibit 'E', Annexure 14**

NBA has made a detailed submission on the status of resettlement of those affected at 90 meters. Referring to the cross-check of the 145 ex-parte notices issued to these PAFs, carried out by the Committee where it was clearly established that the notices were faulty and the Collector, Nandurbar annulled those notices in the presence of the Committee and promised to issue correct notices after corrections were made. NBA has brought to the notice of the Committee that now instead of 145 notices only 71 notices have been served with no explanations being offered. Further the Government has stated in the meeting of the NCA, few days immediately after the verification by the Committee that rehabilitation of 90m affected tribals was complete, when in fact the situation is in such serious



disarray. This is again a lamentable comment on the irresponsible nature of the Government who is ignoring the problems and unmanageability of R&R. The absence of a Master Plan is one of the primary reasons for the mismanagement in R&R. The NBA has made a detailed submission spelling out the prevailing situation at 90m arguing forcefully the reasons for abandonment of the ex-parte policy. They have also suggested a step-by-step procedure that would help in the formulation of the still required Master Plan.

#### **11. Exhibit 'E', Annexure 15**

There are certain aspects in the NWDTA linking displacement, rehabilitation and submergence. The NWDTA lays out clearly that the agricultural lands should be made available to the affected PAFs one year before they are slated for submergence. The Supreme Court's verdict also requires that they should be shifted to the resettlement colonies with all civic amenities and agricultural land at their disposal six months before submergence. The NWDTA has laid down the mandatory principle that under no circumstances can displacement and submergence should precede total rehabilitation. This, according to NBA, is not the case, since in reality the submergence has preceded rehabilitation in the past and even today it is quite obvious in relation to the resettlement of those affected at 90m who will face this year's monsoon whilst sitting in their original villages.

#### **12. Exhibit 'E', Annexure 16**

A step-by-step Master Plan for usage in the resettlement colonies.

### **F. Correspondence of the Committee with the Government.**

The Committee had written certain letters to the Government asking for documentary material giving information on crucial matters within the scope of the Committee's work.

The Committee Chairman was also compelled to write to the Chief Minister on 18<sup>th</sup> April 2001, pointing out the mistakes that were noticed during the Committee's field visit about the ex-parte notices that were issued by the administration locally. This is followed by the Chief Minister's reply dated 18<sup>th</sup> May 2001.



## Recommendations

First and foremost, there should be a change in the definition of a PAF / oustees, to include all categories of people affected by the dam related works.

From the definition of an oustee offered in the NWDTA, it is clear that those ordinarily residing or cultivating land fall within it. Hence the application of an age-limit vis-à-vis cut-off date does not seem to have an appropriate basis in the NWDTA (i.e. only those who were 18 years as of 1-1-1987 are counted as PAFs.) What is also seen is that even those supposedly 'undeclared' by the Government, have their own agricultural land and houses as well, which will be submerged due to the project. In fact most of them own 'Ghar Pattas' and have been paying the house tax regularly. Going by the above definition, all tribals owning property or otherwise who will be affected by submergence should be counted as PAFs and be offered the same entitlements in rehabilitation.

The cut-off date for major sons / unmarried daughters should be that on which the tribal inhabitant gets his resettlement entitlements in actuality as per the Award on his removal from his home and land both included in the villages to be submerged. The date of 1-1-1987 as assumed by the Government to be the cut-off date has no bearing at all with the present realities of the life of the tribals.

Major sons and unmarried major daughters should be treated as individual units by themselves entitling them to equal rehabilitation facilities identical to those meant for the recognized head of the family. This change should be effected in the resettlement colonies as well as in the original villages with immediate effect.

For ascertaining the acreage, which a displaced agriculturist amongst the tribals has in possession and hence entitled to, unpublished official surveys of 1985-86 (which resulted in the Government Resolution of 1992) which do exist, should be treated as the base for completing the process of conferring land rights in the original villages. This should be completed presently before any further displacement takes place.

Further on the Land Rights of the tribals it ought to be said that it is the responsibility of the Government to confer on them their due rights in respect of their land holdings in accordance with their own policy resolutions to that effect and the Supreme Court ruling in the case of Pradip Prabhu vs. Government of Maharashtra, 1995, requiring the Government so to do. It does not appear that the Supreme Court's directions have been complied with. The Government owes the tribals the rights that they have over these lands that they have possessed for generations. This would have to be done immediately and as a pre-requisite to any further displacement. The granting of rights would have to be carried out with the understanding that even those already shifted to the resettlement colonies would get accorded their rights in the original villages and any suitable corrections in the rehabilitation entitlements would be made subsequently.

Much is made of the surveys of PAPs carried out by the Government agencies for ascertaining the true number of tribal families to be affected. From the Government side an attempt has been made to give finality to the last survey carried out. We are not satisfied with this approach. True, those not eligible for relief or rehabilitation should not be given that facility, but we find it very difficult to believe that tribals known for their honesty and integrity are falsely setting up claims so as to attain benefits to which they are not entitled. Such avarice and greed is fairly common amongst the plains' people, which may account for the Government attitude. In the case of tribals, however, it is a misplaced suspicion, except possibly in a few cases.

The formation of "tapu" (island) and isolated villages/hamlets becoming socially unviable units is common knowledge. The State policy is quite clear on this point requiring affected persons from



such villages/hamlets to be declared as “affected” and so as to become eligible for all rehabilitation entitlements. Since this is not being done, the Government should carry out a survey with the help of the NGOs to ascertain the correct position in this respect in the region. The official list of affected tribal families should be subsequently prepared and verified in gramsabhas called in the affected villages, and the offers of similar resettlement entitlements should be made to them.

A fresh door-to-door census will prove the disparity between reality and the results of the Government survey carried out in the past and hence this new survey ought to be carried out as a matter of urgency. For this purpose it is desirable that the Government takes assistance from the NGOs like NBA who enjoy the confidence of the people and from the elders of the villages to be submerged. This survey should be carried out prior to any further displacement or submergence or further increase in the height of the dam.

In the context of the resettlement of those tribals who are affected at the present height of the dam, we see many problems plaguing the process. On one hand there is no proper realistic survey of the number of tribals to be affected, while on the other there is no agricultural land available for their resettlement presently.

The process of **ex-parte allotment of lands** is believed to be in keeping with the approval of the NCA (Narmada Control Authority). One seriously doubts if this is permissible having regard to the Tribunal Award prescribing options to the oustees. It is of course true that the oustees cannot keep resisting and refusing eviction and rehabilitation for all times to come. But the reasons for rejection and resistance have to be considered and if found justifiable upheld, with the Government being under an obligation to remedy the situation. Moreover, since the ex-parte allotment is a “deemed settlement” in the eyes of the NCA, this device ought not to be used by the Government to inflate the number of settled PAFs in the context of a pre-requisite for the permission for further progress in dam construction where in fact they have no suitable lands to offer to all the recipients of such notices. The Committee had witnessed and intimated to the concerned authorities that such notices were being issued carelessly. There surely is the case where the offers are made but there is no availability of land in the resettlement colonies.

On the occasion of the first tour we had picked out at random three notices intimating the oustees of ex-parte allotments of land / house plots to them. A physical verification showed that the notices were incorrect in material particulars and this forced the Collector to concede that all the 145 notices that were then issued to those PAFs affected at 90m, could not be acted upon and that those notices will be withdrawn until after a proper scrutiny. The third tour was carried out after an interval of about a month, when instances of similar defects arising out of a wanton use of this method whereby out of 145 notices issued earlier, the Government had no land to offer to as many as 63 of them, came to our notice forcing the officers then present to concede the occurrence of mistakes. One hopes that this course will not be repeated in future. It is however learnt that without furnishing the compliance statement as was expected in relation to the previous notices, fresh notices have furthered been issued to 71 PAFs from amongst the 145 PAFs stated earlier.

The PAFs having agricultural land in the submergence villages should be compensated acre for acre (within the ceiling limit) and at the least a 2 hectare plot of agricultural land and a house plot of 90' x 60', as directed by the NWDTA. Building material should be given for the construction of a house to include tiles, bamboos, A/C sheets and such number of wooden posts as are considered necessary for setting apart the residential portion of the home from the non-residential. This has to be provided as per the state Government policy immediately after shifting. The house plot should not be more than 1-2 km away from the agricultural plot allotted, except in exceptional cases with the written consent of the PAF prepared before gaonsabha.

All agricultural plots allotted or to be allotted to the oustees to be made completely culturable at the Government expense. House plots, in a single new ‘gaathan’ of the oustees should be of such PAFs



as are bound by ties of kinship and sub-tribal affinities as in the NWDTA. Every such 'gaothan' should have the community facilities mentioned in the Tribunal Award and the Government Resolutions on the subject.

The NWDTA has specified community resettlement by way of rehabilitation villages. The Government of Maharashtra, till now, has quite successfully pursued this principle. Now that there is a need to purchase / acquire more land, it should be done in like manner as this principle is obligatory.

Each PAF allotted agricultural land should be immediately provided with the required quantity of water for irrigation purposes until some permanent arrangement in the shape of a water-bearing well is made separately available to the allottee of the agricultural land.

The right of the tribals in the new agricultural land and house plots will be in the nature of a permanent settlement. This is of particular importance since they should not be without legal titles to their lands in the new resettlement colonies as they were in their original villages. In the rehabilitation villages grants of agricultural lands and house plots should not be merely physical. Those rehabilitated have to be supplied the relevant title deeds and revenue papers lest the dishonest revenue staff tries to tinker with the acquisitions the tribals have made after sacrificing so much. This should be done immediately lest they are again misdescribed as encroachers, trespassers, land grabbers or squatters and the lands then be re-acquired from them by the State itself. They will however not be allowed the right to sell or encumber this property though the right of inheritance will be kept intact. The tribals be prohibited from selling, encumbering, leasing etc. of their agricultural lands except to recognized public institutions like the revenue department, nationalized banks, co-operative banks or credit societies and that for raising loans purely for agricultural purposes.

Excepting the resettlement village of Simamli in Gujrat, which offers a little satisfaction, rest of the resettlement villages from Maharashtra in particular, visited by us, lack almost all the basic facilities required for habitation, specially quality and availability of suitable agricultural land. One cannot ignore the enormous number of complaints that the Committee came to hear from the aggrieved people about having been shifted to the new sites without being provided with compensatory agricultural land. One of the greatest shortcomings is that of non-availability of water even for domestic purposes like cooking and drinking. Even in Simamli, it is not as if everything is as it should be. People have complaints but comparatively speaking it appears to be the best of the resettlement habitats that we could visit.

In regard to the facilities for providing water at the resettlement colonies to irrigate crops and for potable purposes, the document dated 14.5.2001 and received by the Committee at its meeting at Nandurbar held on 20.5.2001 from one of the officers of the Government, shows that near about 70-80 per cent work remains to be done and this covers all the five resettlement villages. Needless to say this is an admission by the administration of the lack of a vital input in the rehabilitation package.

The present resettlement colonies are facing multiple problems in relation to those who have already been shifted there. Their basic problems, with regard to agricultural land and civic amenities, still remain unmet. While this situation prevails, these sites should not be burdened with further exacting demands in relation to new oustees to be shifted there. Unless those already shifted are fully cared for by resolving all their problems within a time bound framework, especially land related, there appears to be no room for further resettlement at these sites.

Moreover, it is considered that there are a certain number of people from the submergence villages who have been transported by the Government to the rehabilitation sites. The Government does not look upon them as PAFs and the shifting at Government expense is claimed to be an act of compassion inspired by humanitarian ideals. We have seen very little of humanitarianism in the dealings of the Government with the oustees. In fact that certain people were shifted from the villages to be submerged is prima facie proof that they and their forefathers were natives of the same villages and



were entitled to the prescribed acreage of land whether as recorded landholders or alleged encroachers. For this reason we recommend that the distinction between “declared” and “non-declared” oustees should be done away with. All those who are non-declared should be made entitled to the resettlement package of the Government. This change should also be effected in the original villages.

It is surprising that towns in Gujrat as far away as Jamnagar are said to be getting Narmada waters, while those in the so-called resettlement village of Rozwa have to do without this precious liquid for days together. At times the rest of the resettled villages have to fetch potable water from distances ranging from 2-5 kilometres. Surely, this is a strange way of inflicting misery upon injury.

Every family of a displaced tribal has a right to a steady source of income from non-traditional sources. The project is going to need a number of employees to attend to various tasks. The tribals are not entirely illiterate or unskilled. The state of the villages to be submerged indicates a high level of cooperation between the residents for the mutual benefit of all. The tribals take little from the river and the forest and are aware of the need to renew the assets they partake of. That is why the 33 villages still have an unsullied forest covering and unpolluted source of water. Their care and concern shows that the tribals have an aptitude of which use can be made by the authorities to give unto the supposed beneficiaries what has been promised to them. Each tribal family should be having a member who can easily be absorbed in Government service related to the project.

The residents of these 33 villages which are to be submerged are indigenous people who have been pushed into areas inaccessible or considered difficult by the invading plainsmen. Pushed to the extreme the tribals have invested their labour and skills to eke out a fairly comfortable living. As they have been deprived of even this, it is but fair that civil society through its representatives, the Legislature and Executive, makes good the loss. How difficult it will be for the tribals to adjust to the new lives which they will be compelled to live cannot be really understood by those living on the labour of others. The rehabilitation villages do not have a perennial source of water or a forest nearby. As of today the tribals have very little acquaintance with the wisdom or craftiness necessary to survive in a market-dominated economy. At least two or more generations of the tribals will require sustenance in the shape of cash assistance to make up for the non-agricultural income which was at their disposal from the nearby river and forest. That is why we are going to suggest a fairly long period for the cash equivalent for the loss caused to the tribals by being deprived of fish, melons and forest produce etc. This sustenance was available to every tribal without exception.

For the loss of the non-agricultural income the tribals should receive monetary compensation running over a period of at least 50 years. We are aware that what we prescribe is far less than what the tribals are entitled to. Their loss is almost irreparable. There should be an attempt to also focus on self-employment with natural resources by replacement of the lost resources. Forest lost cannot be replaced but food, fuel, fodder should be ensured at the resettlement colonies. Therefore, grazing land, fuel sources like fuel depots and adequate cultivable agricultural land wherein there be food for consumption and employment opportunities should be ensured. Land for land, minimum of 2 hectares, for each displaced family, declared or undeclared, would go a long way in achieving this.

But some amends must be made and we suggest that each project-affected nuclear family which we consider as including a man, wife and 3 (three) children, all such children being below the age of 18 years, should get monetary compensation at the rate of Rs 2,000/- (two thousand) per month. Every additional mouth should be entitled to an extra sum of Rs 400/- (four hundred) per month. Children who have attained majority, whether with their parents or separated, shall be treated as a separate nucleus entitled to compensation on the above lines though of course, if a daughter is married and is going to get compensation via her husband, will not render her eligible to receive compensation separately. Marriages of the daughters to eligible PAPs (project-affected persons) will transfer their right to receive compensation from the father of the daughter to her husband into whose family she has moved in.



For those who have been deprived of their agricultural land and houses because of submergence but have not yet been placed in possession of culturable land and house plots, we recommend compensation at the rate of Rs 3,000/- (three thousand) per acre per annum right from the date of ouster until being placed in undisturbed and legal possession of the new agricultural land and house plots.

The monetary compensation suggested above shall be index-linked and shall be payable with variations based upon the annual CPI (Consumer Price Index) – the base year for this purpose being 1987.

The tribals should be paid immediately their outstanding dues in respect of the loss of their standing crops and tress which have been submerged almost every year since 1993 / 1994, and for which the Government has effected 'Panchanamas' on every single occasion.

For the loss of the non-agricultural income, we deem it necessary to suggest that the tribals deserve compensation on this score. It may be said that they were encroachers / trespassers in the matter of collecting and selling forest produce, catching fish for either consumption or sale and raising different types of melons on the banks of the river, again for personal consumption or sale. It may also be said that the livestock and poultry that the tribals had is not something for which they deserve compensation as in any case, pasturage was from Government lands. A closer look at the legal position would disabuse the common notion spoken of above. The tribals had acquired the right to collect forest produce, wood for construction and fuel, fish from the river, etc. That right is termed in law as a "**profit a prendre**" called also a 'right of common'. In Black's Law Dictionary, 6<sup>th</sup> edition, *profit a prendre* is defined as:

"A right exercised by one person in the soil of another, accompanied with participation in the profits of the soil thereof. A right to take a part of the soil or produce of the land ..... the taking (profit) is the distinguishing characteristic from an easement. ... .. It carries with it the right of entry and the right to remove and take from the land the designated products or profits and also include the right to use such of the surface as is necessary and convenient for the exercise of the profit."

These rights, the tribals, according to the depositions made before the Committee, have been exercising since times immemorial. Therefore, property has been taken away from them and for this they deserve compensation. Even in relation to agricultural lands it is not enough to say that the tribals were encroachers / trespassers vis-à-vis the Akrani lands which were forests governed by the Conservation of Forests Act of 1980. As a matter of fact, at one stage a survey was begun as early as in the year 1985, with the idea of converting the so-called forest land into "bhoomidar" rights. Suddenly the process was later reversed by a non-speaking fiat of 1994. The survey begun at this stage was under the Maharashtra Land Revenue Code and when it was suddenly reversed, the reversal apart from being illegal, was by a non-speaking notification rescinding the work already done. (Government Notification No. RB / DESK / II / LND / II / 475 / 1994 dated 7-6-1994, issued by the Office of the Commissioner, Nashik Division.) We do not see how the Government is entitled to flout the laws in this fashion.

It appears that the matter has gone much further in the sense that the acreage, the boundaries and draft village papers had been virtually completed. Apparently, then it struck the Government that there would be a contravention of the Conservation of Forests Act, 1980, which is a Central legislation. Assuming that this is so, it is not as if the Government of Maharashtra is helpless. We wish to make it clear that the Sardar Sarovar Project is an inter-state undertaking with the State of Gujrat being the biggest beneficiary. The Centre's assent to the project has come fairly late and therefore, the Union Government also cannot disclaim its responsibility by saying that it is a matter concerning States over which it has no control. **Art 254(2) of the Constitution of India**, lays it down that where a law made by the Legislature of a State with respect to one of the matters enumerated in the



CONCURRENT LIST contains any provisions repugnant to the provisions of an earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State. There is of course, a proviso to this sub-article which enables the Parliament to enact at any time any law, including a law adding to, amending, varying or repealing the law so made by the Legislature of a State. Having regard to the equities, the least that can be done is to see that the displaced tribals get the necessary benefits to which they are entitled. To claim that they were near trespassers in forest land is a gross error. For generations these tribals have been cultivating the lands and prescriptive titles can be acquired even against the State. If the tribals and their forefathers have been in possession since the last at least 100 years if not more, it follows that they have become the owners of the said lands. **The Forest Conservation Act of 1980** is not a parchment in granite which cannot be wiped out. It can be easily amended by State Legislation, which legislation will have to undergo the process prescribed by the sub-Article (2) of Article 254.

The recommendations that we wish to make hereby are not only in relation to vital matters but also in relation to other matters, which may be considered as less important, but are nonetheless equally crucial for the everyday living of the tribals. For example, the tribals do require boats for crossing the river to meet their daily requirements. As the tribals in Manibeli have pointed out, as long as there are villages with tribals residing in the valley, Government should provide free transport and boats, both ordinary and machine boats, depending on the distance for transport. Without this the tribals from almost all the villages in Maharashtra are facing a great difficulty in reaching out to places of market, health and other services, many of which are in Gujrat.

The schools presently in the submergence villages supposedly run by the Government exist merely on paper. Complaints have been made that the teachers appointed to teach in these schools never visit the institutions, though are regular in the drawing of their salaries. For this reason, at some places, it is the Narmada Bachao Andolan (NBA) which is running schools (called "Jeevanshaalas"), up to 4<sup>th</sup> standard, manned by local, not highly paid but dedicated teachers. These teachers are from the tribals themselves and the results are commendable. A good percentage of children pass 4<sup>th</sup> standard exams in good colours. Those who have passed out and gone to get education in the higher schools in places like Dhule, Malegaon, Dhadgaon, etc have again shown high performance. The Government should now support these schools with the existing staff also retained and all such facilities are provided as are meant for educational institutions existing elsewhere in the State of Maharashtra.

Most of the tribals who appeared before us had scores of grievances against the officers with whom they had come in contact with. The very fact that the Government has not been successful in persuading all the residents of the villages to be submerged to move out to the resettlement regions, is proof that the oustees have not got their promised compensations whether in kind or cash. The government has not been able to convince the tribals of its capacity to carry out the task of rehabilitation as expected.

The great divide between officialdom and the NGOs like the NBA and PSS is most unfortunate. Whatever be the reasons, the misgivings have to be removed and this can best be done if the Government in conjunction with the above-mentioned NGOs carries out the process of rehabilitation. Most important is that the two sides stop attributing improper motives to each other and cooperate to accomplish the difficult but necessary task of seeing that the displaced tribals get their dues as early as possible. In this context, where submergence and displacement have been made inevitable, it is now extremely necessary that at least those affected tribals must be fully rehabilitated through co-operation of all concerned.

The recommendations, which we make, should not be construed as a favour to the displaced tribals or a planned extravagance foisted upon a State facing financial stringency. The Sardar Sarovar Project is basically expected to yield benefits. It is but fair that those who are losing their lands and homes



get a small share from the expected abundant yield. **The Constitution of India** in its very **Preamble** speaks of several values, but places first that of Justice in the social, economic and political context. If justice is required to be done to the water-starved regions of Gujrat, justice also requires that those who are making this possible get a small fraction of the goodies as their compensation, for what they are losing. **The Directive Principles of State Policy** may not be enforceable in any Court, but are, to use the language of the Constitution, “nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws”. (see Article 37).

Again Article 46 of the Constitution enjoins the State to promote with special care the educational and economic interests ..... In particular of the Scheduled Tribes and to protect them from social injustice and all forms of exploitation.

Article 300A prohibits depriving a person of his property save by authority of law and law is not merely that is found in the different codes and GRs (Government Resolutions). One has to go by the spirit and this views the expression “property” to include any proprietary interest including a precarious interest. Here we have seen that the tribals had the river waters, the forests and the rich soiled Narmada valley agricultural lands for their exclusive enjoyment. Now that they are going to lose all this and more, it is incumbent upon the Indian people, through its representative governments to compensate the losers to the extent permissible. As it is, all manner of people deserving or otherwise, get Government handouts. Compensating tribals for the great loss they have or will sustain should not be viewed otherwise than as their just entitlement.

India is a signatory to an International Convention to safeguard the interests of the tribals and recognise their age-old rights. The International Labour Organisation, (ILO), Convention 107 adopted in 1957 as a “Convention concerning the protection and integration of indigenous and other tribal and semi-tribal populations in independent countries.” India was one of the first countries to ratify ILO 107, doing so on September 29, 1958. The Convention, with a view to safeguard the interests of the tribals, provides in Article 11,

“The right of ownership, collective or individual, of the members of the populations concerned over the lands which these populations traditionally occupy shall be recognised.”

Article 12,

“1. The populations concerned shall not be removed without their free consent from their habitual territories except in accordance with national laws and regulations for reasons relating to national security, or in the interest of national economic development or of the health of the said populations.

2. When in such cases removal of these populations is necessary as an exceptional measure, they shall be provided with lands of quality at least equal to that of the lands previously occupied by them, suitable to provide for their needs and future development. In such cases where chances of alternative employment exist and where the populations concerned prefer to have compensation in money or in kind, they shall be so compensated under appropriate guarantees.

3. Persons thus removed shall be fully compensated for any resulting loss or injury”.  
(underlining ours)

ILO 107, confirms the rights of tribals over traditional lands in their possession and the mandatory guidelines for the resettlement of those who are to be displaced. However, on both counts, it appears that the Government has failed in regard to the tribals affected by the Sardar Sarovar Project. The land rights of the tribals are not only being denied but the tribals are being shortchanged in resettlement too.



The tribals have lost or will be losing what was their hearth and home since umpteen generations. The loss they have sustained, quite apart from the disruption of family ties and even if restricted to things material, is enormous. That loss has to be made good. In spite of government efforts, the rehabilitation process has fallen much behind again, as never has there been an attempt to make a detailed, perfect and realistic plan. A part of the loss which the tribals have sustained, apart from the loss of family ties to community resources which is never counted in the official estimates, is also due to the non-compliance with the official policies. Now that the apex Court has permitted further construction of the dam, it should be remembered that the very apex Court has required the rehabilitation to be accomplished strictly in accordance with the norms governing resettlement as laid down by the NWDTA and State rehabilitation policy. Even the same has not been achieved with regard to those affected at 90 meters height of the dam. For this purpose we suggest that a **Seven-Member Committee** do function to oversee the process of rehabilitation. The Committee shall include a representative each from the NBA and PSS, and representatives of the tribal community each from the original villages and resettlement sites. The rest of the members shall be nominated by the Government from their Revenue, Forest, Tribal Affairs and Rehabilitation departments. This Committee shall meet once a month for the next two years to come and thereafter once every three months until the physical rehabilitation is completed in its entirety. It is necessary that the tribals have an additional protection in the sense of their true representatives overseeing the work of rehabilitation. For this purpose we suggest the names of M/s Manikrao Gavit, a Member of the Parliament and also a Member of this Committee, and Shri K.C. Padvi, a Member of the State Legislature from Nandurbar. These two gentlemen shall participate in the Committee meetings irrespective of whether they continue to be returned or otherwise to the Legislatures of which they are presently members. We have to make it clear that Shri Gavit is not privy to the last recommendation.

To repeat, what we have recommended is not really an extravagance; it is but a small recompense for the much that has been lost and that which will be lost in the years to come. Where lacking, the Government of Maharashtra should bring its R&R package up to the mark and it should consider improving its policy to make provisions advantageous to its own tribal citizens and superior to those pronounced elsewhere.

Government on its part should strictly comply with the conditions laid down by the Supreme Court for raising the height of the dam beyond 90 (ninety) meters. The present situation is such that there are still hundreds of families who are affected at 90m and are yet to be offered any proper resettlement options. In this regard, the contradictions between the ground reality and the figures furnished by the Government are eloquent and it will be necessary for the Government to correct its figures. Since the earlier data has been placed before the Narmada Control Authority on the basis of which certain vital decisions were taken, the correct version should also be notified to the NCA. The Government should not use incorrect information merely because a stamp of finality has been conferred upon it at the Mantralaya level. In any case we would like to bring to the Government's notice its responsibility to see that it does not accept any proposal to raise the height of the dam beyond its existing height of 90 (ninety) meters unless the obligations laid down by the NWDTA and Supreme Court are fulfilled as a whole in regard to those PAFs affected at 90m and yet to be resettled. The Government should also see to it that the process of shifting people conforms precisely to the permitted raise in the height of the dam.

The contradictions between official information coming from different sources indicates that all is not well with the collection of information by the Government agencies. It is necessary that the Government for its own honour garners accurate and incontrovertible evidence on basic facts like the number of Project-affected persons and families, exact acreage of agricultural lands required for the oustees, the number of house plots and building material to be made available and the incidental details. If correct data be assembled, it will be a great aid in the rehabilitation of the displaced tribals. In collecting this information, the Government should not pressurize the local officials by giving them impossible deadlines. The local officials are short of hands and the tasks they have to



carry out are onerous. Increasing the pressure on them to furnish this or that detail by a deadline will only aggravate that problem. What we suggest is that hereafter any process of development proposed to be carried out by the Government will be done in effective collaboration with the 'Gramsabhas' of the villages. It should be remembered that the tribals lack the skills to communicate with the officialdom, which also has a tendency to ignore their grievances. For this reason assistance provided by the NGOs like the NBA should be solicited and welcomed. The 'Gramsabhas' of each tribal village, specially convened for the purpose, shall collect the relevant factual material within a reasonable period and verify its correctness or otherwise before the same is transmitted to the Government. This information should prevail over the statistics prevailing at the Mantralaya level. The Government should furnish every tribal written information in the form of an official leaflet detailing entitlements to project-affected families.

The Master Plan, as described herein, should be presently prepared in the form of a draft and widely publicized amongst the people and their sympathizers and finalized after due deliberations.

The assistance to be rendered by or taken from the NGOs should be on par with that provided in the policy documents for rehabilitating the population affected by the earthquake which took place on 30<sup>th</sup> September 1993 in the district of Latur in Maharashtra; where it was made obligatory on the part of the government agencies to seek meaningful assistance from and participation of the NGOs. Government should seek cooperation of the NGOs because they command the confidence of the people unlike the Government officials for whom rightly or wrongly, there is distrust.

The recommendations in relation to compensation whether in cash or kind shall be in addition to and not treated as a substitute for compensation suggested by the Tribunal, the Government and the NCA recommendations.

The recommendations that we may have made, if accepted, should be incorporated into either a legislation or a Government Resolution. This will prevent errors of omission and commission and give the administration as also the affected people an instrument to adhere to.

We hope the Government will accept our recommendations in toto and that in particular it shall publish this Report as early as possible.

We are grateful for the assistance rendered to us in the discharge of our duties by the officers of the Government of Maharashtra and the officials of the Gujrat Governments from the areas and sites we have visited. Further, we would like to thank the representatives of the NBA and PSS for the assistance rendered by them in enabling us to get a proper perspective of what has been done and remains to be done.

Sd/-  
Justice S. M. Daud (Retired)  
Chairman

Sd/-  
Manikrao Gavit, MP  
Member

Sd/-  
Barrister Sharad Palav  
Member

Sd/-  
R. V. Bhuskute  
Member

Sd/-  
Smt Pratibha Shinde  
Special Invitee

Mumbai,  
29<sup>th</sup> June, 2001.



**Views of D.M.More, Chief Engineer and Joint Secretary, Irrigation Department, Government of Maharashtra, as a Special Invitee to the "Committee to Assist the Resettlement and Rehabilitation of Sardar Sarovar Project Affected Persons" (Government of Maharashtra)**

I take this opportunity to thank the Committee for inviting me to join the Committee as a Special Invitee and also to express my views on the subject of the resettlement and rehabilitation of the tribals affected by the Sardar Sarovar Project. I am also grateful to the Government for consenting to the Committee's request to participate in their deliberations.

I have perused the draft report which the Committee has prepared for submission to the Government. I, however, feel that the Committee ought to have had a common meeting to discuss the related issues threadbare before arriving at their conclusions and recommendations.

I was happy to be present during the Committee's two out of three visits to the submergence villages and resettlement sites as well as all the meetings that were held by the Committee. I consider myself fortunate to have a close glimpse of the individual and collective life of the tribals living far off from the general society, both geographically and culturally.

I regard to the Irrigation facility to be made available to the oustees' agricultural lands in the resettlement sites, I would like to say that the process of providing irrigation devices in the form of open dug wells, tube wells, minor tanks, percolation tanks etc. with or without lifting equipments is in progress. The completion of this will take some time. I would also like to add that even after providing the irrigation infrastructure it takes a considerable time for the full irrigation development as the irrigated agriculture is a multi-faced activity and water is one of the inputs, though vital. It should be remembered that the provision of irrigation along with the agricultural land is a unique feature of this R&R package which is not to be commonly seen elsewhere in the country. However, much remains to be done in this regard to effectively cover the entire area designed for the purpose, b seeking participation of the users.

For the tribals, irrigation farming is a newly activity and as such it is vital that they are properly oriented towards making an effective use of the scarce water resource to enrich their crop yield by such inputs as water management through farmers' camps with help of State-run Water and Land Management Institute located at Aurangabad.

During my personal visits I witnessed almost at all the relocated sites, few people cultivating irrigated farming over a small piece of land even during the severe summer of 2001. Therefore, I may not agree with the conclusion drawn by the Committee saying 'NO' in response to the issue raised in this behalf. One has to appreciate that the irrigation facility is to be provided within the limits of economic constraints and physical availability of water resource. The Government is indeed committed to explore all possibilities in this regard to make this activity more advantageous with a view to improve the economic conditions of the affected tribals as envisaged in the NWDT Award.

I would consider it as an essential activity to conduct door-to-door survey in order to ascertain whether the individual and / or collective entitlements of the affected persons have been received by them in toto as prescribed by the NWDTA and the Government's own policy of rehabilitation/ The collective / community entitlements include common civic amenities such as drinking water, school, drains, roads, grazing land, thrashing ground, medical clinic etc. and the individual entitlements include house compensation, free transportation of salvageable material, land to land, irrigation facility, rental compensation, crop compensation and other monetary benefits and so on as prescribed by the NWDTA and State Government policies. This will also include listing of eligible sons and daughters, their eligibility could be ascertained through an appropriate mechanism



necessary of medical board. During the course of visits I came across a large number of grievances for non-payment of house compensation.

I feel appropriate to formulate a small group consisting of one member each from the Departments of Revenue and Irrigation together with a representative of the NGOs enjoying the confidence of the people and a member of the village community chosen separately for each village. This group should be assigned the task of door-to-door survey of all the affected villages and arrive at the factual details in respect of both the collective and individual entitlements. This may sound to be a very tedious job, but in fact it is a straightforward and very simple one which can be carried out by junior officers working at village level and known to village community. This could be achieved in about three months' period and not more.

Based on such survey, the shortfall in their entitlements could be made good with a liberal and sympathetic attitude on priority basis and in conformity with the spirit of the NWDTA and the Government policy.

Sd/-  
(D.M. More)

Mumbai  
29<sup>th</sup> June 2001

### **Reply to the Note expressing his views submitted by Shri D.M. More, Special Invitee and Joint Secretary, Irrigation Department**

The Committee has received and gone through the views expressed by the Special Invitee Shri D. M. More, Joint Secretary, Irrigation Department, Government of Maharashtra. It is not possible for us to wholly agree with the views expressed by him. Without meaning any disrespect to him, he appears to be optimistic about the implementation of the rights carved out for the oustees by the Tribunal Award and the Government policy. Had the Government personnel sincerely carried out the rehabilitation process, much of the discontent that was voiced before us would have disappeared. It is because of the failure at the ground level that we have been constrained to find against the Government on all issues. However, we appreciate Shri More's proposal that a door-to-door survey of the project-affected persons in the submergence and rehabilitation villages be carried out by a small group comprising members of Revenue and Irrigation Departments as also a representative of the NGO, enjoying the confidence of the tribals and a member of the Gramsabha from each village. If this had been the approach of the Government much of the difficulties that the oustees have experienced would not have occurred and the oustees' confidence in the good faith of the Government would not have been shaken to the extent that we have felt in the interaction with the tribals and the NGOs representing them.



**Views of Shri. Nandalal, Shri.D.R.Mali, Shri.K.S.Parab  
Government of Maharashtra**

No. SSP 31/2001/CR-4/R-5  
Revenue and Forests Department  
Mantralaya, Mumbai – 400 032  
Dated the 26<sup>th</sup> June, 2001

To,  
The Hon. Justice Shri.S.M. Daud (Retd.)  
Chairman, Committee to assist the rehabilitation of the  
Sardar Sarovar Project Affected Persons,  
104, Om Vivek Co-op. Housing Society Ltd.,  
R/4 Sector, Pipe Line Road,  
New Tilak Nagar  
Chembur  
Mumbai – 400 089

Sub: Report of Sarvashri. Nand Lal,  
Member, K.S. Parab, Member Secretary, and  
D.R. Mali, Special Invitee

Sir,

Sarvashri. Nand Lal, Member, D.R. Mali, Special Invitee and myself – K.S. Parab, Member Secretary have gone through the Report prepared by you and other members i.e., Sarvashri Manikrao gavit, Member of Parliament, Barrister Sharad Palav, R.V. Bhuskute (Retd. Tahsildar) as well as Smt. Pratibha Shinde, Special Invitee.

2. Unfortunately, we, the above mentioned do not agree with the most of the observations and recommendations contained in the report.
4. Accordingly, we have prepared our separate dissenting report, which is submitted herewith.

With regards,  
Yours faithfully,

Sd/-  
(K.S. Parab)  
Member Secretary and Desk Officer  
Revenue and Forests Department

Encl: As above.



## **The Report:**

### **Committee to assist the rehabilitation of the Sardar Sarovar Project Affected Persons**

This report represents the view of Shri. Nand Lal, Member and Prin. Secretary to Government, Shri. K.S. Parab, Member Secretary and Shri.D.R.Mali, Joint Secretary, Revenue and Forests Department – a Special Invitee.

2. Shri. D.R. Mali would like to thank the Hon. Chairman Justice S.M. Daud (Retd.) for reposing faith in him and Shri. D.M. More, Joint Secretary, Irrigation Department by recommending their inclusion in the Committee as Special Invitees.

3. Shri. Nand Lal, Member and Prin. Secretary to Government could not participate during the visits of the Committee but still he is conversant with this subject as he has visited Rozwa on 4.2.2000.

4. The above Members and the Special invitee beg to differ with the report prepared by the Hon. Chairman, the other Hon. Members and the Special invitee Smt. Pratibha Shinde. In this connection, we would like to go as per the issues enumerated by the Hon. Chairman.

4.1. The first issue is – where is it correct to say that there is land available for the resettlement of the PAPs in conformity with the tribunal award, the policy of the Government and the verdict of the Supreme Court.

In response to this issue, our observation is that the Government has land in its possession for resettlement of the PAPs affected atleast up to the 110M level of the dam. Up to the 110M height of the dam 1981 families have been declared as Project Affected Families (PAFs). Out of which 1961 families have already been resettled. Of the remaining 65 families, 44 families have opted for rehabilitation in Gujarat and 21 families have opted for rehabilitation in Maharashtra. Considering that an average of 1.60 ha. of land is required per PAP, for these 21 PAPs 33.6 ha. of land will be required. Even if, it is assumed that all the PAPs at this level are resettled in Maharashtra, they will require 104.00 ha. of agricultural land.

The Government of Maharashtra has received 4191.86 ha. of forest land out of which 434.13 ha. has been encroached by the local tribals. On the direction of the Hon. Supreme Court, Government had appointed a committee, under the chairmanship of Shri. Bagul, Dy. Collector, Dhule to decide whether the encroachment was prior to 31.3.1978. The Committee has given its report stating that this encroachment on 434.13 ha. of the land is after 31.3.1978. So this encroachment can not be regularized. The land has been given by the Government of India for resettlement of the SSPAFs. So this land could not be utilised for any other purpose. The encroachment must be removed and the land must be allotted to the SSPAFs. Even the Hon. Supreme Court in the Writ Petition (C) No. 202 of 1995 with No. 171 of 1996 on December 12, 1996 has given clear directions in this regard. This land must be made available for the SSPAFs. The land cannot be used for nay other purpose than desired for the resettlement of project affected persons under the Forest Conservation Act. Violation of the Forest Conservation Act cannot be permitted. This land will be sufficient for the oustees, who will be affected not only at the level of 110.0M but much more than that.

Thus we recommend that Government should remove the encroachment on this land at the earliest so that this land can be allotted to the PAPs.

It was pointed out by the Collector that he has initiated process for purchasing 200 ha. of private land. We recommend that the Government should expedite this process and purchase private land at the earliest. The Government should also identify other private lands, which will be available by purchase and should purchase the private land to make a pool of this land, so that this land can be allotted to the PAPs as per the Action Plan prepared by the Narmada Control Authority.



4.2. The second issue – 2a and 2b i.e. Does there exist an irrigation facility that could be made available for the benefit of the PAPs, our observation on this issue is, that the Government has provided wells as well as tube-wells for irrigation purpose. The Nandurbar district experienced one of the severest drought last year. Consequently most of the wells in the district were either dry or having much less water than their capacity. So the Committee on their visit could not get proper perspective of the irrigation facilities. Still considering the requirement of irrigation, we recommend that percolation tanks / minor irrigation tanks as are proposed by the irrigation department should be completed on priority basis.

4.3. The third issue – 3a i.e. impression of the Committee Members, Invitees in respect of the villages earmarked for resettlement colonies – our impression of the resettlement colonies, is that all of them are having a very fertile agricultural land and most of the civic amenities are provided fully. Due to the severe drought, some villages did experience scarcity of water. But all the five relocation villages were having enough drinking water. The Collector, Nandurbar has provided for tankers where there was unavailability of water in the district. Fortunately these five new gaothans did not require drinking water from the outside source. Now these relocated villages have been declared Revenue Villages and have been handed over to the Zilla Parishad. It is noteworthy that Gram Panchayat elections have been held in these fine villages and elected representatives are looking after the administration of these villages.

4.4. The fourth issue i.e. has the process of rehabilitation of affected tribals been in accordance with the NWDTA and the Government policies for rehabilitation as also the decisions given by the Narmada Control Authority.

In this connection, it is observed that, the resettlement of the Sardar Sarovar Project Affected Families (SSPAFs) is being carried out as per the provisions of the Narmada Water Dispute Tribunal Award (NWDTA). But actually the Government of Maharashtra has gone ahead and has given more liberal package to the oustees of the SSPAFs in Maharashtra. Comparative Statement has been annexed herewith with shows that: -

As per the NWDTA, every displaced family from whom more than 25% of the land holding is acquired, is entitled to irrigable land to the extent of land acquired from it subject to the prescribed ceiling in the State concerned and the minimum of 2 ha. of land per family. The price charged for it could be as mutually agreed between Gujarat and the concerned states.

As per the policy of the Maharashtra Government, land equivalent to that acquired with a minimum of 2 ha. and maximum limited to State Ceiling as mentioned above is given but even joint holders are also eligible for land acquired to his/her share subject to minimum of 2 ha. of the land and it is allotted to the oustees free of cost.

For landless oustees, there is no provision for land to be given in the NWDTA, whereas, the Government of Maharashtra is giving 1 ha. of land to the landless oustees each.

In the NWDTA every major son is treated as separate family and no provision for land allotment is made for them. Whereas the Government of Maharashtra gives 1 ha. of land to each major unmarried daughter of all categories of oustees with a cut off date of 1.1.1987.

In the NWDTA land allotment is not provided for the encroachers on the forest land, whereas the Government of ha gives 2 ha. of land and compensation / ex-gratia payment for the balance land encroached up to 31.3.1978. Later encroachers are treated as landless and get 1 ha. of land each.

As per the NWDTA transportation charges are to be incurred out of resettlement / rehabilitation grant, whereas free transportation is provided by the Maharashtra Government.



In the NWDTA there is no provision, for acquisition of private land / houses which get isolated or physically cut off due to the Sardar Sarovar Project waters, whereas, as per the policy of Government of Maharashtra, these types of lands are acquired and owners are treated as oustees.

The NWDTA has provided for civic amenities, the Government of Maharashtra over and above these amenities, also provides Play Ground for school, Khalwadi (Threshing Platform), S.T. Stand, Open Place for Bazar, Cremation / Burial Ground, Samaj Mandir (Cultural Centre). Over and above the provisions of the NWDTA, the Government of Maharashtra has provided for reservation in service and in Industrial Training Institutions for the deserving oustees. Similarly, land owners are entitled for Rs. 8,000/- and landless labourers for Rs. 4,000/- as House Building Advance. All ongoing Welfare Schemes are being implemented at these relocation sites.

5. There are many families who have been given much more land than that is going to be submerged or that have been acquired e.g. Shri. Chandya Sitya Vasave of village Sinduri was owning 2.92 ha. of land, out of which 2.50 ha. of land has come under submergence. He alongwith his sons has received 6.50 ha. of agricultural land at Narmadanagar.

The land at the submergence village is a hilly one, not congenial for cultivation of crops whereas the Government of Maharashtra provided very fertile and irrigable agricultural land at the relocation sites. Civic amenities which were most difficult to be provided in the submergence villages due to the topographical features of the land are provided in a liberal manner in the relocation villages.

6. For the process of rehabilitation to be completed effectively, a dedicated team of officers is required to be posted. It was noticed by the Committee that the post of Dy. Collector, Sardar Sarovar Project, Office Taloda is vacant and it's additional charge is given to the Sub-Divisional Officer. So we recommend that all the vacant posts in the Sardar Sarovar Project Affected Persons Rehabilitation Division should be filled urgently and very dedicated employees should be posted on these posts.

7. Similarly, it was pointed out by the officers and the employees that sometimes, some activists gherao them when they visit the sites and try to compel them to write letter mentioning that the Government does not have enough land for rehabilitation of PAPs. It was pointed out that in the past Shri. Deshmukh, Dy. Collector, SSP, Taloda was made to do so. If there is any individual grievances, it should be referred to Grievances Redressal Authority for redressal.

8. This Committee was constituted and was given certain terms of references. According to which the Committee is to examine whether the resettlement of the Sardar Sarovar Project Affected Person has been carried out in accordance NWDTA, policies of the Government of Maharashtra and decisions of the N.C.A. In this context, it is not desirable to recommend changes, in the definition of PAPs / oustees, and change in the cut off date. It is not proper to recommend that the major sons and unmarried major daughters be treated as individual units and recognised as head of the family, to adopt unpublished surveys as base for conferring land rights in the original villages, to give compensation for the loss of non-agricultural income, not to make distinction between declared and non-declared PAPs and to take a fresh door to door census of the PAPs. This will open pandora's box and there will not be any definite scientific method to do so.

Sd/-  
(Nand Lal)  
Member & Principal  
Secretary to Government

Sd/-  
(K.S. Parab)  
Member Secretary &  
Section Officer to Government

Sd/-  
(D.R. Mali)  
Special Invitee &  
Jt. Secretary to Government



## **Reply to the Note of Dissent submitted by Official Members Messrs Nandalal and K.S. Parab and Special Invitee D.R. Mali**

We have been apprised of the contents of the dissenting report submitted by Messrs Nandalal and K.S. Parab, Member and Member Secretary respectively, as also the Special Invitee D.R. Mali.

After careful consideration of the dissenting views and with respect to the report of the dissenters, we find ourselves unable to subscribe to their opinions. It appears to go contrary to what we have been told by the affected tribals and seen for ourselves.

The note of dissent speaks of availability of land to accommodate even those who are going to be displaced if the dam is raised to 110 meters. Our inquiry shows that there is no available land, at least at present, even for those displaced by the raising of the height of the dam to 90 meters.

We do not discount the severity of the drought Nandurbar district experienced this summer. Even so the fact remains that the so-called resettlement sites suffered from lack of potable water, not to speak of that vital liquid for irrigation purposes.

We note with dismay the view of the official Members and the Special Invitee that a fresh count of the actual number of Project-Affected Families, change in the cut-off date, major sons and unmarried major daughters be treated as individual units and recognized as head of the family, provision of compensation for loss of non-agricultural income, etc. etc. is beyond the scope of the terms of this Committee. On the contrary, to review the rights of the affected tribals and the process of their rehabilitation in order to make suitable recommendations in that respect is one of the important terms of reference of the Committee. In fact the very first issue speaks of the availability of land to resettle the project-affected families. Of course we differ with official Members and Invitee in regard to who the PAFs are. To our minds it will not do justice to restrict the number of PAFs because this is likely, to quote the dissenting report, "open Pandora's box". Where the remissness of the Government-conducted survey is clear, it cannot furnish the basis for deciding who are the PAPs / PAFs.

The official Members and Invitee concede the non-existence of irrigation facility. They want us to look to the plans, which will be implemented to work out the shortcomings. More than a decade has passed since the passing of the Tribunal Award. Enough time was available to the State Government to create irrigation facilities. While the Gujrat Government has gone at a neck-break speed to buy even costly gadgets to put the dam into full operation, our State Government has yet to complete acquisition of land, conversion of forest land into revenue land, and creation of sites and gaothans, which can be called rehabilitation villages, properly speaking.

Provision of a common resource for irrigation in any particular village or even clusters of agricultural land will be a source of conflict in the future. Fights over the right to draw water for irrigation of crops if the source of water be single are not unknown. That is why we have recommended the provision of a separate irrigation facility to each allottee of land. In the submergence villages the tribals lived in amity and quarrels over the quantum of water required by each was virtually unknown. No one should expect the resettled tribals to take to the conflict, which is inevitable, if separate wells or sources of drawing water are not made available.

The existence of a school or two or elections to village panchayat are no indication of proper rehabilitation. In fact much requires to be done to enable the tribals to get the full benefit of the civic amenities prescribed for them by the Tribunal Award, let alone the Maharashtra Government's policy.

The alleged comparative of the infertility of soil in the original villages being submerged that has been mentioned in the note of dissent does not seem to be accurate. From the narrations given to us by those to be displaced we see no reason to disbelieve that the soil is rich. And this may also be on



account of alluvial deposits, which river Narmada gives every year to land adjacent to it. Apart from this we should not forget the large herd of cattle whose droppings contribute rich manure which not only enriches the soil but also prevents the aridity noticed by the extensive use of inorganic manure in the plain.

That we disagree with official Members and Special Invitee on the above matters is regrettable. It should not be taken as a reflection of any personal discord between them and us. We respect their views and hope that they agree with our right to differ from them and that our differences are based upon as honest an appraisal as the one which has led them to disagree with us.

The fundamental objective in constituting our Committee was to look after the interests of the tribals in question. Proper rehabilitation of the displaced tribals is therefore the crux of the matter.

Our views may not be palatable to the Government but we believe that the primary purpose of the Committee is to ascertain whether justice has been done to the oustees who have given up so much and have got so little in return. It is this unequal and iniquitous phenomenon, which has, led us to our conclusions and recommendations. In coming to this we have not forgotten the straitened financial position of the State Government and the need that the verdict of the apex Court be obeyed. This cannot however be done by mere promises and by making it sound as if the Maharashtra Government policy is or has been really acted upon to provide for the desired rehabilitation to which all the oustees are entitled. The flaws and the shortcomings which we have noticed has made us come up with the recipes which we feel will provide some sort of recompense to the oustees.

We do not see how any term in the reference made to us prohibits us from making appropriate recommendations and limit ourselves to the confines that supposedly exist in the notification constituting this Committee.

Member of the Parliament Shri Manikrao Gavit and a Member of the Committee, in the course of his interventions and the discussions with the majority gave the impression of being of the same view as the majority. The replies which we have given to the views expressed by Shri D. M. More in his note and the note of dissent submitted by Messrs Nandalal, K. S. Parab and D. R. Mali also have his approval.

Smt. Pratibha Shinde, Special Invitee is not available in Mumbai today for signing this reply to the dissent submitted by Messrs. Nandalal, K.S. Parab and D.R. Mali. Barrister Sharad Palav has read over the contents of the reply to her on telephone and she has conveyed her acceptance to the reply.

Sd/-  
Justice S. M. Daud (Retired)  
Chairman

Sd/-  
Manikrao Gavit, MP  
Member

Sd/-  
Barrister Sharad Palav  
Member

Sd/-  
R. V. Bhuskute  
Member

Sd/-  
Smt Pratibha Shinde  
Special Invitee

Mumbai, 29<sup>th</sup> June, 2001.



## Letter of Jst. Daud (Retd.) to Chief Minister, Maharashtra

**Justice S.M. Daud (Retd.) M.A., LL.B.**

Senior Advocate, Supreme Court of India

Chairman,

Committee to Assist the Resettlement of the

Sardar Sarovar Project Affected Persons

104, Om Vivek Co-op. Housing Society Ltd., R/4 Sector, Pipe Line Road, New Tilak Nagar  
Chembur, Mumbai – 400 089

Mumbai, 18<sup>th</sup> April 2001

### URGENT – PERSONAL

Dear Chief Minister,

This is in relation to the Revenue and Forest Departments' Resolution No.SSP312000/PK4/R-5 dated 23.2.2001 as amended up-to-date, titled, "Committee to assist the Resettlement of the Sardar Sarovar Project affected persons".

In this connection, I and most of the members of the Committee had prepared a plan to carry out certain site visits beginning the night of the 11<sup>th</sup> and concluding in the early hours of the 16<sup>th</sup> of this month.

In the visits to various villages / sites / cultivable lands, the colleagues who accompanied the undersigned included members Barrister Sharad Palav, Shri. R.V. Bhuskute, Shri. Manikrao Gavit (Member of Parliament), Shri. Parab (Desk Officer) and Special Invitee Smt. Pratibha Shinde. At my request the Joint Secretaries of the Irrigation and Revenue Departments Messrs More and Mali respectively, apart from the local officers, were also present.

We have heard a large number of persons who included the tribals of the villages to be submerged as also those who are now in the so-called Resettlement villages and some of the officers of the local administration. The latter category included the Collector of Nandurbar District.

In the course of a site inspection, there (3) random samples of notices given by the administration to tribals to shift from their present location to ex-parte allocated relocations, were picked up for a site verification. This was on account of umpteen complaints made by tribals and their representatives that agricultural lands and house plots allotted or proposed to be allotted in the rehabilitation villages / sites were unsuitable or cultivation / not measuring up to the area mentioned in the notices / imprecisely and ambiguously described and in many cases allocated to more than one person, etc. etc. Of the three notices, two were found to be gross cases of misdescription falling into one or more of the slots indicated above. Having regard to this position, certain concessions were made by the Collector at the spot which were reduced to writing on the dictation of the undersigned at the spot itself. Those assembled included the Collector and some of the officers when the dictation was given. Subsequently, that is, the very next day, a copy of the observations of the transaction that took place was got typed and handed over to a local officer with a request that he makes over the same to the Collector. He was kind enough to agree to do so. I enclose herewith for your information, a copy of the same.

Two members of the Committee, Barrister Sharda Palav and Shri. R.V. Bhuskute, the Special Invitee Smt. Pratibha Shinde and myself are of the tentative opinion that the tribals already displaced / to be displaced, located in rehabilitated sites and lands / or to be so relocated are extremely indignant



at what has been done / omitted to be done. To a very great extent their grievances prima facie appear to us to have a strong base in ground realities.

In view of the aforementioned positioned, we deem it our duty to convey the tentative picture to you for information and such action as may be deemed appropriate I the circumstances.

I am arranging to send a copy of this note to the Ministers of the concerned departments, the Chief Secretary, Secretaries who hold charge of the Revenue and Forest departments as also all the members, the Invitees, the Joint Secretaries and the Collector of Nandurbar district for their information.

From the comments made by Shri. Manikrao Gavit (MP) whenever he spoke in the course of our visit, it would appear that he also is of the same view as myself and my aforementioned colleagues.

With regards,

Yours sincerely,

Sd/-

**(S.M. Daud)**

To

The Chief Minister

Government of the State of Maharashtra,  
Mantralaya, Mumbai – 400 032

Copies to:

1. The Minister for Revenue Department
2. The Minister for Forests Department
3. The Chief Secretary
4. The Secretary, Revenue Department
5. The Secretary, Forests Department
6. Member Shri. Manikrao Gavit (Member of the Parliament)
7. Member Barrister Sharad Palav
8. Member Shri. R.V. Bhuskute
9. Member Shri. Nandlal, Principal Secretary Revenue, Mantralaya
10. Member-Secretary Shri.K.S.Parab, Revenue and Forests Department
11. Shri. More, Joint Secretary Irrigation Department, Mantralaya.
12. Shri. Mali, Joint Secretary Revenue and Forest Department, Mantralaya.
13. The Collector, Nandurbar District, and
14. Shri. Paithankar, Addl. Collector, SSP, Nandurbar
15. Special Invitee Smt. Pratibha Shinde
16. The Minister, Rehabilitation Department, Mantralaya
17. The Secretary, Rehabilitation Department, Mantralaya

Taloda

14<sup>th</sup> April 2001



## **Committee to assist the Resettlement of the Sardar Sarovar Project affected persons**

(An extract of the Chairman's dictation at the time of the physical inspection in the context of Notices issued in relation to Ex-parte allotment of Land or otherwise).

The Collector says that all notices regarding shifting will not be enforced, that fresh notices will be issued after examining records properly and also seeing that the notices to be reissued reflect the correct position.

The notices for shifting will be issued after rechecking and correcting the allotments which will be in accordance with the Tribunal Award, Supreme Court Judgment, Government of Maharashtra policies from time to time and the NCA directives.

In this connection, the NBA (Narmada Bachao Andolan) and the PSS (Punarvasan Sangharsha Samiti) will convey their views which the Collector will kindly convey to the NCA.

Member Shri. Bhuskute says he is doubtful if such notices of shifting can be given at all, having regard to the fact that the Tribunal Award prescribes three options.

We expect this process to be completed before the next visit of the Committee in May as planned.

Sd/-

**(Justice S.M. Daud)**

Chairman

### **Chief Minister's Reply to Jst. Daud (Retd.)**

Chief Minister  
Maharashtra  
Mantralaya  
Mumbai – 400 032

Date: 18.05.01

Dear Sir,

I am in receipt of your letter dated 8<sup>th</sup> April 2001, regarding resettlement of the Sardar Sarovar Project affected persons.

I am issuing instructions to initiate necessary action to the Principal Secretary (Rehabilitation).

With regards,  
Yours Sincerely,

**(Vilasrao Deshmukh)**

Justice S.M. Daud  
Chairman  
Committee to Assist the Resettlement of the  
Sardar Sarovar Affected Persons,  
104, Om Vivek Co-op. Housing Society Ltd.,  
R/4 Sector, Pipe Line Road, New Tilak Nagar  
Chembur, Mumbai – 400 089



## **Government Resolutions**

(Translation of the relevant portion of the Government Resolution <GR> dated 23.2.2001)

Committee to assist the resettlement and rehabilitation  
of The Sardar Sarovar Project- affected persons

Government of Maharashtra  
Revenue & Forests Department  
Govt Resolution No. SSP 312000 / PK4 / R-5  
Mantralaya, Mumbai 400 032  
Dated: 23 / 2 / 2001

## **Government Resolution**

1. The Sardar Sarovar Project Dam is being built on the river Narmada in the State of Gujrat in accordance with the Award of the Narmada Water Disputes Tribunal. Since 3221 families from 33 villages of Maharashtra will be submerged as a result of this dam, they are being resettled in Maharashtra district of Nandurbar. This resettlement is planned in accordance with the Award of the Narmada Water Disputes Tribunal as well as the policy decisions from time to time adopted by the Government of Maharashtra. In this connection the line of action with regard to the future construction of the Sardar Sarovar dam has been finalized in accordance with the judgment dated 18.10.2000 given by the Hon. Supreme Court on a petition No. 319/94. To deal with the grievances of the Sardar Sarovar Project-affected people, a Grievances Redressal Authority has been set up under the Chairmanship of the Retired Justice of the Supreme Court, Shri S. P. Kurdukar. The directives issued by this Grievances Redressal Authority are binding on the Government. Also the recommendations of the Resettlement and Rehabilitation Sub-Group of the Narmada Control Authority made in their reports from time to time after visiting the submerged as well as the resettlement area are binding on the Government. The construction of the dam will be carried out in stages in conformity with the approval of the Resettlement & Rehabilitation Sub-Group of the Narmada Control Authority in consultation with the Grievances Redressal Authority and also with the approval of the Environmental Sub-Group of the Narmada Control Authority.
2. Accordingly, the Government has resolved to set up the "Committee to Assist the Resettlement and Rehabilitation of the Sardar Sarovar Project-affected Persons" so as to assist the Sardar Sarovar Project-affected persons to communicate their grievances regarding their rehabilitation & resettlement.

**The following members are being appointed on this Committee:**

- 1) Justice S. M. Daud (Retired)
- 2) Shri Manikrao Gavit, Member of Parliament
- 3) Barrister Sharad Palav
- 4) Shri R. V. Bhuskute, Retired Tahsildar
- 5) Shri Nandalal, Principal Secretary (Forests), Revenue & Forests Dept,
- 6) Mantralaya, Mumbai
- 7) Shri Parab, Desk Officer, R-5, Revenue & Forests Dept, Mantralaya,
- 8) Member-Secretary

**3. The terms of reference of the Committee will be as follows:**

- 1) To make recommendations for making available land for the resettlement and rehabilitation of the Sardar Sarovar Project-affected people,



- 2) To assist the Sardar Sarovar Project-affected persons to present effectively their grievances before the Grievances Redressal Authority,
  - 3) To visit and inspect some of the villages in the Project-affected region as also the resettlement colonies,
  - 4) To inspect the civic amenities created in the new resettlement sites and make recommendations thereon,
  - 5) To inspect the irrigation facility to be created for the Sardar Sarovar Project-affected persons and make recommendations thereon.
4. The Committee will have no independent office. However, the non-official members of the Committee will be eligible for such daily and travel allowance as would be payable to Government officials drawing a salary of Rs. 16,400/- and upwards. However, they will not be entitled to the facility of air travel or air-conditioned first class railway compartment journey.
  5. (Provision for allotment of the expenditure under certain heads of the Accounting Department of the Government).
  6. The Committee will submit its report to the Government by 30<sup>th</sup> of April.

BY ORDER OF THE GOVERNOR OF MAHARASHTRA

(D. R. Mali)  
Joint Secretary  
Government of Maharashtra

(Translation of the Government Resolution <GR> dated 23.3.2001)

Committee to assist the resettlement of  
The Sardar Sarovar Project-affected persons

Government of Maharashtra  
Revenue & Forests Department  
Govt Resolution No. SSP 312001 / PK 4 / R-5  
Mantralaya, Mumbai 400 032  
Dated: 23 / 3 / 2001

REFERENCE: Govt Resolution No. SSP 312000 / PK 4 / R-5  
Dated 23 / 2 / 2001



## Government Resolution

A Committee has been constituted under the above reference to assist the resettlement of the Sardar Sarovar Project-affected persons.

The Government has resolved to make changes in the terms of reference of this Committee and as such the terms of the Committee will now be as under: -

- 1 To assist the Sardar Sarovar Project-affected families to voice their grievances effectively before the Grievances Redressal Authority,
- 2 To examine the availability of land for the resettlement of the Project-affected people and to make recommendations in accordance with the policy adopted by the Government and the provisions made thereunder,
- 3 To examine and make recommendations for the irrigation facility that would be made available for the benefit of the Sardar Sarovar Project-affected people,
- 4 To inspect some of the villages in the Project-affected region as also the resettlement colonies in Maharashtra and make recommendations for implementation of the rehabilitation policy (of the Government),
- 5 To review the rights and (the process of) rehabilitation of the Sardar Sarovar-affected Adivasis and make recommendations in accordance with the Award of the Narmada Water Disputes Tribunal and the Government policy for rehabilitation of the Sardar Sarovar Project-affected people as declared from time to time as well as the decisions of the Narmada Control Authority.

The Government has also resolved that Smt Pratibha Shinde of the Punarvasan Sangharsha Samiti of Taloda, District Nandurbar, be co-opted as Special Invitee.

BY ORDER OF THE GOVERNOR OF MAHARASHTRA

(D.R. Mali, Joint Secretary, Government of Maharashtra)

(Translation of the Government Notification dated 12<sup>th</sup> March 2001)

Committee to assist the Resettlement  
of The Sardar Sarovar Project-affected persons

Government of Maharashtra  
Revenue & Forests Department  
Government Corrigendum No. SSP 31 / 2001 / PK 4 / R-5  
Mantralaya, Mumbai 400 032  
Dated 12<sup>th</sup> March 2001

Read: Government Resolution, Revenue & Forests Department No SSP 31 / 2001 / PK 4 / R-5 dated 23. 2. 2001.



## Corrigendum

Please read as "Justice Shri Daud (Retired), Chairman" in place of "former Justice Shri Daud" in paragraph No. 2(1) of the Government Resolution dated 23. 2. 2001 referred to above.

In the name and by order of the Governor of Maharashtra,

**(D.R. Mali)**

Joint Secretary

Government of Maharashtra

*smp*

30.3.2001



## Annexure 9

Dy. Collector,  
Sardar Sarovar Project  
Akrani

**Sub: Land availability for SSP-affected persons at Sites in Taloda**

**Context: (Ref.): Your letter no. Rehabilitation/SSP/172/97 dt. 20/06/1997**

The information on the comprise land distributed to the SSP affected at Amoni, Dhekati, Rozva and Somaval Sites in Taloda and the details of balance land in as follows:

Coup No.	Balance land-area (ha)	Present Condition
446	43.01	Nalas and rocky land
447	27.11	Encroachment near Alivihir
448	14.83	Encroachers from Somaval
449	9.26	Encroachers from Somaval
450	30.72	Hilly, nalas. Not acceptable
451	23.99	Encroachment from Kalibeli
452	00.85	Ranmahu/Jambhaipada
453	04.36	Rajvihir/Jambhaipada
454	05.33	Hilly, nalas. Not acceptable
455	10.48	Hilly, nalas. Not acceptable
456	02.71	Hilly, nalas. Not acceptable
457	Nursery	Nursery exists.
458	16.10	Encroachment of Rozva Plot
434	--	No land available
435	17.10	No land. Hilly, nalas.
436	10.00	Encroachment from Gadhikothada

Out of the balance land shown in the coups above, the encroached region can be available unless the encroacher-cultivators are evicted. The land which is hilly and has nalas, is not going to be acceptable, as per our opinion. As on today there is no balance land for SSP-PAFs in any of four sites.

Sd/-  
Deputy Collector-SSP,  
Taloda



## Annexure 11

June 11, 2001

Justice (Retd.) S.M. Daud and Members of the Committee  
to Assist Rehabilitation of SSP-affected families in Maharashtra

Respected Sirs,

This is to bring to your notice some of the latest developments with regard to SSP-related rehabilitation and displacement and the stance taken, data published by the Govt. of Maharashtra.

1. It was due to the in-depth investigation during field visits by your committee that the unreliable and unacceptable ex-parte land allotment by GoM was exposed. The Collector, Nandurbar had to admit the need to reissue the notice at least if not questioning the very basic flaws in and violation of NWDTA inevitable in ex-parte allotment process itself.

However, inspite of your written instructions and their assurances, the officials continued with total adhocism in ex-parte allotment. As reported in the NCA meeting held in Delhi on May 4th, they have issued not 145, but 71 land-allotment notices, ex-parte. Who are these 71 and who are left out and why is not known. Also, this is against the claimed position in the GoM's official note submitted to you in March/ April 2001 (71 figure doesn't refer to reissued notices, please note).

2. GoM has only recently, in the first week of June, started issuing fresh notices of ex-parte land allotment. Till June 9th, we could find in the field that only 20 notices to Nimgavan and 17 to Domkhedi were issued. This is done without withdrawal of the earlier notices. (Rest on this issue is covered in our detailed note, Update on Rehabilitation...) Adhocism is an attempt to underestimate the number and a result of nonavailability of cultivable land.

3. The stand taken by GoM in the NCA meeting held on May 4th is also not based on the field reality and has not taken into cognizance, the formidable and even fatal flooding ahead. GoM seems to have, through its representative at NCA, expressed the concern for dam-safety and not human safety. (Selected pages of the minutes of the meeting enclosed. Annexure – A.) This clearly shows that unlike Government of Madhya Pradesh, Maharashtra has been totally callous to the balance PAFs, scandalous problems in R & R, unmanageability of rehabilitation with land for rehabilitation not in sight.

4. This in turn is based on the continued false reporting both of R & R subgroup and the full body of NCA (Refer to the selected pages on 'Status of R & R of SSP', a part of the minutes of NCA meeting of May 4th, Annexure – B.) Even on April 20th, a few days after the flaws in ex-parte allotment were exposed by your committee, GoM representatives seem to have reported threatened zone. (We have seen in the field less than 148 notices having actually reached...)

All this means not only that the issue of 'undeclared' is kept unresolved and GoM has instead taken an inhuman and even illegal position regarding these families, whose actual number (in all the villages – Manibeli to Bhadal) is much larger.

Also, they are considered as 'undeclared' and loss/damages to their property and life is not taken any responsibility for, just when many of their applications are pending before Justice Kurdukar and even the district authorities, on which they also have a right to go in for an appeal at the commissioner's level.



5. Much more serious thing to be noted from the press reports is that GoM continues to refer to 90 mt-affected PAFs and not 93 mt-affected. The number of PAFs affected at 90 mts admitted through the press statements seem to be, 324 PAFs declared + 198 undeclared = 522 PAFs at least.

Also, out of 324, the reports refer to 78 as resettled and 168 PAFs having allotted ex-parte land allotment but there is no mention of the rest i.e. 78 PAFs (324 - [78 + 168]).

Since not all 168 have received ex-parte land allotment and no one having received it, has yet checked the cultivability, suitability (for rehabilitation villages) of the land, we can't presume all 168 PAFs as rehabilitated. Hence, one has to conclude that there are 246 + 198 (i.e. 444 families) families in the villages as per the government statistics. This obviously doesn't take care of the full extent of underestimation shown by NBA, nor does this include PAFs at R & R sites, yet to be rehabilitated.

All this brings out the stark reality of a mess of rehabilitation on one hand and alarming situation in the valley, on the other. There is no way that anyone can do justice to the tribal families before all face the illegal, inhuman flood and whatever follows.

One at least hopes that the unbelievably flawed and fraudulent process, decision and actions of the bureaucrats and politicians be exposed, as in the case of ENRON; the project is not allowed to proceed further in such a situation and without consent of the organized PAFs.

It's also necessary to place the blame for the total adhocism in planning and absolutely illbased actions complicating the situation further, in this context. The resultant problems, it may be noted, are nothing less than the atrocity against the tribal population, which needs to be recognized and action taken.

– Medha Patkar



## Annexure 14

### An Update on the Rehabilitation of Sardar Sarovar Project Affected Tribal Families in Maharashtra

#### **Background:**

The government of Maharashtra, for months before the Supreme Court gave its verdict (October 18th, 2000), began to claim in its affidavits that there are 145 families to be affected at 90 mts of Sardar Sarovar dam-height, balance in the tribal villages of Maharashtra, and who can be taken care of. Government of Maharashtra had always been claiming that it is only the resistance of the NBA-organized tribals that is resulting in lack of program and rehabilitation. NBA, the organized tribals, on the other hand, were demanding all information related the Project including its cost-benefits and the master plan for rehabilitation with all details of land for resettlement. They also always demanded carrying out of a full fledged, legal process of granting land rights, updating land records, correcting estimates of the affected... and identification of land for all. Since this process was never carried out, NBA also asked for stoppage of dam, expressing its view that just rehabilitation of all project-affected adivasis seem to be impossible.

As and how the dam-height was pushed ahead, NBA continued to insist of rehabilitation of the people affected, not only in Maharashtra, and in Madhya Pradesh and Gujarat too, where too it has a mass base.

#### **Non-availability of land established:**

The situation of Maharashtra Project Affected Person (PAFs) at El 90m is now more than clear. The GoM has not been able to show land for PAFs from one village, let alone for all the remaining PAFs in all the affected villages. The lands were claimed to be available in Amlibari, Rozva, Dekati, Amoni and Somaval R & R sites, but in March 1999, May 1999, September 1999, 27th March-4th April 2000, 3-5 October 2000 and on January 29th 2001, when a representative group of a few hundred adivasi PAFs went to the government with due intimation and on occasion, with official invitation through a notice (as in May 1999, October 2000 and January 2001. Notices placed as Annexure 1), government officials either refused to take them to the sites and show the land, resorted to beatings and arrest during peaceful sit-in and fast outside the Collectorate or when a team of surveyors, Deputy Collector and other officials had a joint investigation with the PAFs they admitted non-availability of land at the site. There was at times (as in May 1998 and January 2001) a written statement on the happenings therein, signed by all present and a video on the visit in March 1999 (available with NBA and submitted to the Committee already). Much of this was also submitted to the Supreme Court as a part of NBA affidavits. In spite of all this, it was on the basis on the Government's false data and ill-based claims that the Apex Court permitted a 2 meters raise in height, i.e. up to 90 m.

#### **Ex-parte allotment: Fraudulent and illegal move:**

Though the decision to resort to ex-parte allotment of land was taken on 6-12-1999, in the 59th meeting of the NCA, it was enforced only after the Supreme Court passed its judgement. Apparently, the NCA and the Governments knew that if they had initiated ex-parte at that time and the NBA had raised this issue in the Supreme Court, the Court would clearly understand that ex-parte is being resorted to mask their inability to procure land for resettlement. Therefore, this process to allot land plots and house plots without the consent of the PAF was resorted immediately after the Supreme Court judgement. Suddenly ex-parte land allotment certificates were delivered in bunches at the houses of the village leaders in the affected villages.

When the Committee for Assisting Rehabilitation (CAR) visited the site of Amlibari and Rozva, the problems with ex-parte allotment was openly seen in the presence of the officials.



### **Investigation of the reality of ex-parte allotment:**

On the 13th of April 2001 the project affected persons from the submergence villages ventured to Amlibari to verify the availability of agricultural land that had been allotted to them 'ex-parte'. The allotment of this land was made known to them through notices served by the Government of Maharashtra to those PAFs affected at 90 m according to the Government. The notices further stated that on a particular day in May, the Government would arrive with vehicles at their original villages, to permanently shift them to their newly allotted lands and house plots in the resettlement sites, just in time before the submergence that will submerge their properties and assets.

The CAR was holding a hearing in the same site that very day and the issue was brought before them where the NBA expressed its deep reservations and total dismissal of such an arbitrary allotment process that is not in compliance with the NWDTA and the state R & R policies. Shri Ashim Gupta, the Collector, Nandurbar along with his officials present there, acknowledged the fact that they served notices to those affected at 90 m. It was eventually decided that three sample notices would be verified on ground in the presence of the Committee, state officials and NBA.

Details of the verification carried out and the results were noted by the CAR, in the dictation of Shri Jst. (Retd.) Daud, which was being noted down.

The Collector at the end of this process, standing the pot-holed land piece, after conferring with his officials who were busily studying their documents and area maps to understand these blunders, announced before the Committee and NBA that the issued notices would be immediately withdrawn because that appeared to be many errors in them!

All this was taken note of by the Committee that ruled, the next day, that the notices should be reissued in accordance with the NWDTA and state policies after rechecking and correcting the documents. What was also decided was that the NBA would convey its views on this issue and the Collector would convey the same to the Narmada Control Authority.

The latest development is that these notices have been reissued, but not to every PAF who was served the notice initially! Further, the fragmentation of communities is inevitable since PAFs are scattered over three R & R sites. Again, the adhoc manner of issuing notices is repeated, and will be proven so on verification. There is a deluge of notices being showered on the PAFs. One notice informs all the undeclared PAFs, affected at EL 90 m though, to shift their houses to safer places before the monsoon. There are letters from Shri Kurdukar, informing the undeclared PAFs that the verification of their claims will now be carried out by a Medical Board that is yet to be set up. **A detailed note on the notices served to PAFs is enclosed (see Annexure 2).**

The intrinsic problems with 'ex-parte' allotment were clearly demonstrated in the verification that was carried out by the Committee, Collector and NBA. Hence we believe that this process should be immediately discarded and those PAFs who have been resettled 'ex-parte' should be resettled in the manner prescribed by the NWDTA and state R & R policies, which the Supreme Court ordered the states to do.

**It is an accepted fact that the rehabilitation of the PAFs affected at EL 90 m was, in accordance with the NWDTA, supposed to be completed by December 31st, 2000. This, however, did not happen and the rehabilitation of the PAFs at EL 80 m to EL 90 m, still remains to be completed at the PAFs are still in the original villages.** Thus the judgement of the Supreme Court and NWDTA that the construction of the dam cannot precede the rehabilitation of those to be affected and stands violated. Today's factual scenario is that there are more than a thousand PAFs affected at EL 90 m who remain to be resettled. (The list of PAFs affected at EL 90 m and not resettled has been submitted to the Committee.) The possibility of rehabilitation also seems unlikely, as there is no land available at the R & R sites. Their lives, property and assets will be in peril this monsoon and the finger of



blame is pointing directly at the state Government and local rehabilitation officials, including the Collector.

We believe that, in a bid to mask its inability to rehabilitate these PAFs in accordance with the NWDTA, the state Government has adopted this rather convenient process of ex-parte allotment of land (to ensure that the balance column of PAFs that remain to be resettled shows zero, on paper at least irrespective of the fact that they are in the original villages still, surely rejecting the ex-parte allotment). Through this the Government has reduced the rehabilitation process, as envisaged in the NWDTA, to a paper exercise. How else can this grossly unjust practice be explained? The decision on ex-parte allotment was taken in the 59th meeting of the NCA held on 6-12-1999. The following monsoon in June 2000, all those PAFs affected up to 88 m (the then height of the dam) were left to face the submergence because their resettlement was not possible owing to the non-availability of land. The PAFs were issued notices to take possession and occupy land without any details of where lands were available. The PAFs replied to these notices demanding such information among others, but the reply was not even acknowledged, let alone is responded to!

Why did not the Governments and NCA allot land ex-parte to these PAFs if land was available after all? Suddenly late last year the ex-parte allotment process was initiated through notices finally ending in the notices received this month by the PAFs informing them that land had been allotted to them at so-and-so site. It is obvious that the intentions of this process are to quell the voices of the adivasis demanding their legal rights. It is a pity that such arm-twisting tactics are being adopted to literally shove the PAFs out of their traditional lands, without fulfilling their legal entitlements. The field level verification of this procedure has clearly proved this and we demand that it should be immediately discarded, at least if the best interests of the PAFs are of paramount importance.

We think it pertinent to raise a few queries about the suddenness of the decision to initiate this process. **Prior to this the normal procedure was, that the Government identified and informed PAFs through notices that they would be affected at such-and-such height and that land has been made available for them at a particular site.** The PAFs would then see that land and if suitable would select it. This land would then be allotted to that PAF. This was the practiced procedure from the time land was made available in Taloda. Now suddenly the NCA and the state Governments have decided to put an end to this procedure and initiate another one that totally nullifies the legal entitlements of the PAFs.

#### **Step-by-step Resettlement: Debunking ex-parte allotment policy:**

Therefore the government should immediately put an end to ex-parte and instead adopt the following procedures:

1. Ascertain the choice of state of resettlement of every PAF [either home state, Maharashtra or Gujarat as per NWDTA XI IV (2) (I)].
2. The government should then identify available cultivable agricultural land in large chunks, so as to accommodate the balance PAFs from the villages and ensure community resettlement.
3. The NWDTA stipulates (Clause IX IV (7)) that, "Every displaced family from whom more than 25% of its land holding is acquired shall be entitled to and be allotted irrigable land to the extent of land acquired from it subject to the prescribed ceiling in the State concerned... This land shall be transferred to the oustee family if it agrees to take it..." In accordance with this provision only land that has been seen and accepted by the PAF should be allotted to them.
4. Cultivable irrigable agricultural land with irrigational facilities at the expense of the state, of their own choice, from 3 options of cultivable land as according to state policy. The government officials should offer the PAF three valid choices of good cultivable land to choose from. If selected by the PAF, it should be then allotted and irrigational facilities should be provided.



### **Land at R & R sites – ready and available: Non-resolution of persisting problems in the R & R sites:**

Alarmingly the Government has turned a blind eye to those PAFs who have been shifted to the R & R site many years ago but have still not been allotted agricultural land. There are many resettled PAFs who are demanding that the less land/uncultivable land allotted to them be taken back and cultivable agricultural lands be allotted to them. Many are yet to receive their due land holding and the GRA has directed the government of Maharashtra to allot the balance land for those resettled PAFs, who have received less than their due. Many other PAFs are still waiting, since years, to be allotted house plots and are presently residing in tin sheds.

These PAFs have been complaining about these issues for years now but to no avail. The fact that their problems remain un-resolved could mean that there is no cultivable land available at the R & R sites today. Inferentially therefore, the lands that are being allotted ex-parte can only be those Government declared uncultivable lands in the R & R site since these lands are the only 'available' lands at the R & R sites.

A very complicating aspect is that **the Government is yet to issue legal land titles for the land that has been allotted at the R & R sites. Infact, the process of transfer of forest land (released for resettlement purposes in 1991 and 1994) to revenue has still not been completed**, as was clear during the investigation by CAR. Therefore, no supposedly rehabilitated PAF has any legal holding over the land allotted to him/her. Hence, the Government can also (as seen in Amlibari) allot ex-parte, lands that have been previously allotted to PAFs shifted into the R & R site. This is most dangerous and can lead to severe conflict among the families and communities at the R & R sites.

Therefore, the Government should firstly engage itself in completely rehabilitating those already shifted to the R & R sites, solving the problems by allotting cultivable agricultural lands to those who have been resettled but not given lands, changing the lands of those with uncultivable lands or less lands, providing irrigation facilities, drinking water and other civic amenities completely and importantly giving land deeds to the resettled PAFs. This will help in uplifting the sagging reputation of the Government and would instill some faith in the people regarding the government's desire to facilitate total rehabilitation of every affected person. Instead the Government has undertaken ex-parte allotment, to add to its tale woes and sadly, endanger the futures of thousands of adivasis, thereby further proving its poor reputation as being unconcerned about the legal and human rights of displaced populations.

The rehabilitation process should be a participatory one and this process just makes it more one-sided, where the Government and its' officials are given the liberty to sit in their offices, at their desktops, meticulously allotting agricultural land and house plots to PAFs irrespective of the choice of the PAFs! This form of allotment suppresses and denies the PAFs their legal rights.

**Today they remain a little over 1000 adivasi families who are affected at EL 90 m and are yet to be resettled. The Government has tried to deny them their rehabilitation rights by adopting ex-parte allotment. The adivasis have had to reject this process as unjust** (see letter to Shri. Tiwari, Narmada Control Authority placed as Annexure 3). The Government should respect the position of the affected adivasis, considering that anyone can see that this procedure cannot replace the actual rehabilitation process.

### **Next Steps**

The history of the rehabilitation process is marked by repeated violations of the legal rights of the PAFs and the Government's reductance and inability to comply with the rehabilitation provisions in the NWDTA. The undeniable fact is that the PAFs have been and will pay the price of losing their



lives and futures for the unwillingness of the Government to resettle PAFs in accordance with laid down rules and regulations.

- We humbly propose that there could be a rational and systematic process for rehabilitating project affected people, born out of a sensitive approach to the issue of displacement. These logical steps and procedures would, either ensure the compliance of the provisions of the NWDTA and would importantly guarantee the PAFs receiving their rightful entitlements, or would bring out the constraints and difficulties in doing so. The process needs to be based on a community participating methodology where the State and the affected populations work together amicably, where the Government will have the opportunity to prove itself as a government for the people and by the people. **This would also, once and for all, establish feasibility or non-feasibility of rehabilitation in accordance with the NWDTA and state policy so as to enable all parties to take a decision on the future of the Project and the displacement issue.**

Until such a time the construction of the dam should be held in abeyance, while the resettlement of those already affected should be completed immediately. On the other hand if the resettlement of those already affected remains incomplete and likely to be time-consuming, the most reasonable decision would be to prevent the submergence of their properties by keeping the sluice gates open and reduce the effective height of the dam by removing the humps and some portion of the middle blocks.

- Acknowledging the complex scenario of displacements, the process can be broadly trifurcated into simultaneous procedures related to distinct categories of the project-affected adivasis. Those are as follows:
  1. **Those PAFs affected by the reservoir of the Sardar Sarovar Project i.e. from villages that will be affected by submergence, villages that will become islands ('tapus') and those that will become unviable social units (isolated villages or hamlets).**

**Firstly**, all the outstanding issues, the various points of conflict, including policy changes suggested by the project affected adivasis and/or recommended by the R & R Sub-group of the Narmada Control Authority and/or Tata Institute of Social Sciences should be resolved. These recommendations were made by the agencies after close examination of the prevailing ground situation, which forced them to realize the need for such changes in the policy of rehabilitation, keeping in mind the best interests of the PAFs. The Government, respecting their recommendations, should immediately adopt them. The attitude of the state Government should be sympathetic and not dismissive since these are critical issues having indelible repercussions in the R & R process.

But before the suggested procedure, we believe that the Sardar Sarovar Project cannot be assumed to be *fait accompli*. If it is seen that the submergence of affected adivasis is possible, but the resettlement is doubtful (as today), then the government must not force the project through at any cost. Hence today, the project should be immediately suspended until a time when the 'Master Plan' for resettlement and rehabilitation is finally ready and the action plans have been formulated following the suggestions listed below, with the guarantee that every single 'oustee' would be rehabilitated completely. If at some point in this process, it is proven that the rehabilitation of all affected PAFs is not possible, then there must be readiness to scrap the project, in the larger interests of the affected population.

The suggested step-by-step procedure follows:



1. **Equalization of R & R policy:** The Government of Maharashtra should, in consultation with the states of Gujarat and Madhya Pradesh, adopt a policy incorporating the best entitlements of the three state R & R policies. The R & R Sub-group of NCA in the 9th meeting of the Sub-group has recommended this.
2. **Adoption of a realistic cut-off date:** The Government should adopt the date of resettlement as the cut-off date instead of 1-1-1987. This has been recommended by the R & R Sub-group of NCA after its 13th field visit and also by the Tata Institute of Social Sciences when they were the official Monitoring and Evaluation agency for the Government of Maharashtra.
3. In Akrani tehsil of Maharashtra, the basic settlement of land rights has still not been completed. Without this, the correctness of official record of rights of the PAFs cannot be assessed. Hence, their entitlements in rehabilitation would be reduced. To prevent such an illegal injustice the land settlement would have to be done. The R & R Sub-group in its report after the 13th field visit unambiguously spelt out the grave consequences of non-settlement of land rights. They recommended that the problem be resolved immediately. **The Tata Institute of Social Science has emphatically stated that the settlement of land rights should be done prior to displacement.**
4. Further, as per the Supreme Court judgement of 1995 in the case of Shri Pradip Prabhu vs. Government of Maharashtra, the Government has to undertake the regularization of forest cultivations in Akrani and Akkalkua tehsils. Without doing so, the states are denying the PAFs their legal rights and violating the Supreme Court order (proved through a letter from Shri Bagul, announcing the formation of the district level committee for survey of forest cultivations for regularization letter submitted to CAR).
5. Pursuant to this, the granting of succession rights and updating of land records would have to be done.















"Hundreds of families affected by the project at 90 mts dam height have not been rehabilitated, and there is no land available for their rehabilitation".

This is shocking finding of the Daud Committee appointed by the Maharashtra State in February 2001 to assess the status of people affected by the Sardar Sarovar Project.

The report also brings out glaring inadequacies in rehabilitation, violation of the Narmada Water Disputes Tribunal Award, failure to grant land rights to tribal peasants and land owners and absence of a master plan for the rehabilitation of project affected population.